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"Wow! Brown Now!" Jerry as Scavenger

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The JFK case is not closed.

## WAITING FOR JUSTICE

By Jeff Goldberg

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They could wiretap, plant informers, topple democracies, use people as guinea pigs, run smear campaigns, provoke violence, hire Mafia killers. It was cloak and dagger and no questions asked.

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# INQUIRY®

JANUARY 7 & 21, 1980


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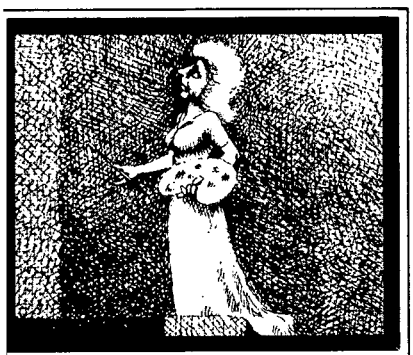


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## A WORD FROM THE PUBLISHER

WITH THIS ISSUE, Ed Crane, for two years our esteemed publisher, takes a leave of absence for the world of national politics. As of this writing, the plight of the hostages remains the same. Every decent person must hope for their safe return. Yet what is perhaps most discouraging is the reaction of the American public, of which Phil Stanford writes in this issue. Blind, unthinking, contemptible jingoism is no monopoly of Americans. But in our case, it is especially dangerous. There are already those who would exploit public passions to reassert American globalism. William Safire has even called Khomeini's actions "heaven sent." In fact, our present quandary is itself the fruit of decades of global interventionism. Our response must be less, not more, of the same.

RR


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# RES PUBLICA

### Just like the Fourth of July

■ Requests for Iranian flags are rising, and local flag dealers report they are unable to meet the demand.

Dealers said they are receiving 8 to 10 calls daily for the green, white and red flag of Iran. They are presumably wanted for burning.

*—New York Times, Nov. 19, 1979*

### And if we're really lucky, it'll turn right into a war

■ National unity, a fragile ideal, a goal that every president sets but rarely achieves, may turn out to be one of the few beneficial—if temporary—results of the Iranian crisis. . . .

"I don't know of a single incident since World War II that has created the kind of unity that we see today," says National Democratic Party Chairman John White. "I think it's a turning point in this country."

*—New York Daily News, Dec. 3, 1979*

### If we had warned them at Hiroshima there would have just been a lot of panic

■ Both the company that operated the reactor at Three Mile Island and the Federal agency that regulated it decided in the first days of the nuclear accident there last spring "that bad news was not something the public ought to hear," a Presidential study group's report asserts.

The Metropolitan Edison Company and the Nuclear Regulatory Commission indicated a "conscious decision on their parts to impart only available evidence and to avoid discussing its implications," the report said.

*—New York Times, Nov. 5, 1979*

### Souvenirs for the kids

■ The Aggie Band of Texas A&M so impressed a group of Arabs at a football game that one woman offered to buy it, lock, stock, and bugle.

The 300-member precision marching unit performed at a Texas A&M–Rice game attended by a group of Kuwaitis who were guests of Gulf Oil Co.

*—Washington Post, Nov. 14, 1979*

### They haven't been so happy since the Palmer Raids

■ At the Immigration and Naturalization Service, Verne Jervis, a spokesman, said the agency had gone into a "crisis mode" with the President's order to document the estimated 50,000 Iranian students in this country. Over 22,000 students had been interviewed by Monday and, ironically, the sudden attention and heavy work load has picked up morale at the usually ignored agency. "Here's a chance to show what we can do," Mr. Jervis said.

*—New York Times, Dec. 2, 1979*

### Fun City

■ Mayor Koch yesterday told the first group of police recruits to be hired in five years that when he was the target of an egg-throwing attack on Monday, he wanted "to kill" his assailants. He exercised restraint, he said, and urged the rookies to show similar self-control.

*—New York Times, Nov. 8, 1979*

### We said "reduce" consumption

■ Richard White, 24, is happily back in the dark today in his Beacon Hill [Boston] apartment.

He was summoned yesterday to Boston Housing Court because he removed his electricity meter.

White said he decided in the spring of 1978 he didn't need electricity. A self-described "naturalist" who works as a laborer and writes, White said he didn't have a telephone, didn't use a stove because he ate only uncooked food and didn't need a refrigerator because he bought food one day at a time.

White walked from court a happy man because the city Housing Inspection Department, which filed the complaint against him, discovered it was lawful to refuse electric power and withdrew its case.

"We've never seen a case like this before," said Howard Russell, the department's attorney.

*—New Orleans States-Item, Nov. 20, 1979*

### The new South

■ Speaking before the Men's Club o Bow Lake Village, New Hampshir Miz Lillian Carter, the President' mother, regaled the audience with series of witticisms on current event including American sexual mores, th *San Francisco Chronicle* (Dec. 3, 1979) r ports. Among her Lillianisms:

"I don't know a gay from a hole in th ground—in my part of the country w don't have 'em."

"One kissed me on the back of th neck at that dinner for homosexuals an when one of that other kind came up was so scared she was going to kiss me didn't know what to do. I'm old but n naive."

### Major contribution to city culture

■ A Dallas County official says th about $700,000 will be needed to start museum displaying artifacts and repor on the assassination of President Ke nedy in the downtown building fro which the fatal shots are believed to ha been fired.

The County Public Works Direct C. Judson Shook Jr., told the Coun Commissioners this week that most the money could come from grants and charity drive.

*—New York Times, Dec. 2, 1979*

### Kitty-litter in every box, a bone in every dish

■ U.S. military families qualify for a li tle-known but controversial benefit: n cost or low-cost care for their pets military veterinary clinics.

This year alone, American taxpaye will spend an estimated $57 million pay the salaries of 667 Army and A Force veterinarians and the 2,000 e listed personnel who serve as their assis ants. Although the other military ser ices do not have veterinary corps, the members are entitled to use Army ar Air Force services.

"Pets provide a stabilizing influenc and we certainly don't want to discou age our GIs from having pets," declare Col. George H. Wyckoff, Jr., chief clin veterinarian at the Walter Reed Arm Medical Center here.

*—Los Angeles Times, Nov. 4, 1979*

### Xanadu in Vermont

■ The City Council [of Winooski, Ve mont] has decided to go ahead wi plans for a study aimed at determinir whether a dome could be placed ov much of Winooski.

*—New York Times, Nov. 25, 1979*



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**Building missiles we can't use**

# A quick fix for NATO

**IF YOU'RE ONE OF THOSE PEOPLE WHO FIND** something incongruous about having the Carter administration plump for a bunch of new nuclear missiles for NATO at the same time it lobbies for SALT II in the Senate, we won't ask you to admit it. No one wants to be thought naive or old-fashioned. After all, if the Russians rattle their rockets when Helmut Schmidt and Jimmy Carter say that true arms control requires building 572 Pershing II and cruise missiles, who are you going to believe? You can't have the neighbors thinking you're some kind of Red sympathizer or, worse yet, an Iranian student. But if you thought that the plan to put new missiles in Europe was one of the worst ideas of 1979, you're not alone.

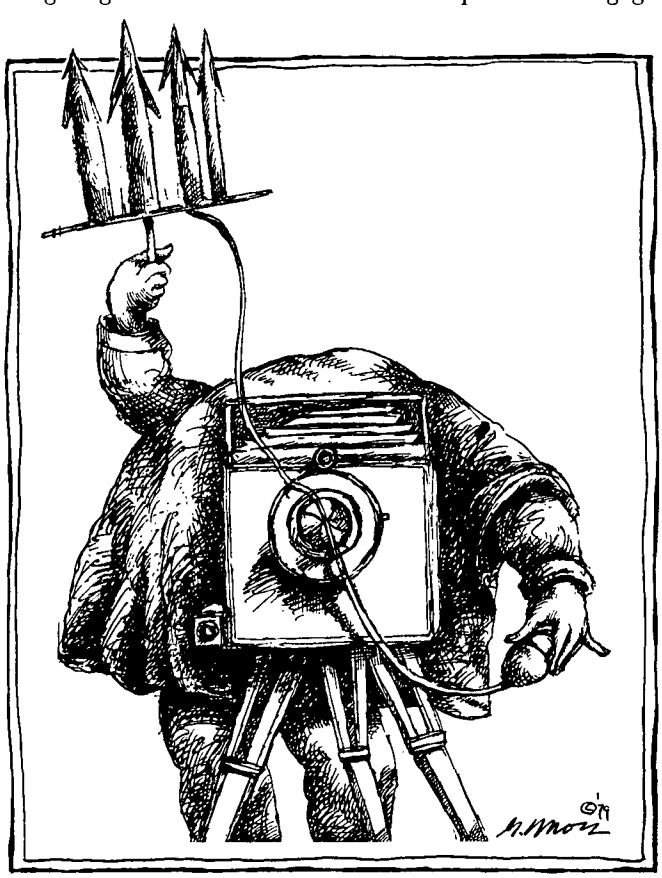
Of course, it's hard to blame NATO leaders for being concerned about the recent modernization of Soviet theater nuclear forces. The best estimate is that by 1982 the Russians will have doubled, within ten years, the number of warheads in this part of their arsenal. Particularly worrisome to Europeans are the Soviet Backfire bomber and the new SS-20, a mobile intermediate-range missile with three independently targetable warheads. About a hundred of these missiles have so far been put in service, two-thirds of them aimed at Europe.

But there is nothing new about this nuclear threat, even if the administration and the press discovered it only this year. It is easily forgotten that after Sputnik, while Americans were digging backyard fallout shelters, the Soviets were deploying medium- and intermediate-range missiles aimed at Europe, not the United States. In the mid-sixties, after the Russians put into service large numbers of ICBMs, Europe remained their target of first choice. Indeed, according to government sources, until 1975 most of those Soviet ICBMs were aimed at Europe; about 120 SS-11s still have this mission. NATO has always been under the nuclear gun, and today, because the SS-20 is much more accurate than earlier Soviet medium-range missiles, that gun is sleeker and deadlier.

In the past, NATO has relied on the central U.S. strategic arsenal to deter a Soviet nuclear attack on Europe. Now, however, fears are growing in Europe about the credibility of the American nuclear umbrella. Some of these derive from a profound ambivalence about the SALT II treaty. Helmut Schmidt supports SALT, but two years ago he worried aloud that "strategic arms limitations confined to the United States and the Soviet Union will inevitably impair the security of the Western European members of the Alliance vis-à-vis Soviet military superiority in Europe if we do not succeed in removing the disparities in military power in Europe parallel to the SALT negotiations." Schmidt and other NATO members count on the U.S. strategic arsenal not only to deter nuclear attacks on the United States but to counter Soviet conventional strength in Europe. This is what is meant by "extended deterrence."

As the Soviet Union reaches strategic parity with the United States, however, the promise that Washington will use its missiles to defend Europe seems less believable to NATO allies, and rightly so. For years alliance etiquette forbade anyone but the French from saying this in public, but Henry Kissinger, speaking September 1 at a conference on NATO's future, shocked Europe with the suggestion that the assurances he and other U.S. leaders had given about the American nuclear umbrella "cannot possibly be true." Despite heated denials from the administration, the whispered doubts have become an uproar.

The missiles that Carter wants to base in Europe are a quick fix designed to calm fears that the SALT agreement signals a "decoupling" of the U.S. strategic arsenal from the defense of NATO. Some Europeans may be reassured by having the new missiles; others who are more perceptive will see the weapons as another effort by the Americans to build a firebreak to keep a European war from becoming a general conflagration. However logical this step may seem to Americans, it is nothing but "decoupling" by another name, a way of fighting a "limited" nuclear war in Europe without engag-



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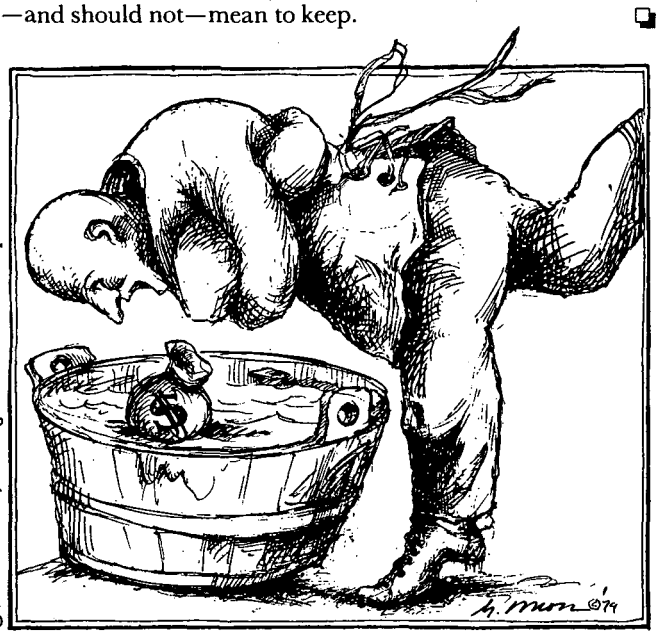
ing the central U.S. strategic arsenal. Europeans may take some comfort in the thought that fighting a "limited" nuclear war would require Soviet cooperation, and the Russians have never seemed to like the idea of letting the Americans obliterate the western USSR while keeping North America as a sanctuary. However, if a local nuclear exchange would lead inevitably to a general war, then the United States is no more likely to use the Pershing II and cruise missiles in defense of Europe than it would be to fire its Minuteman missiles. And if this is so, then putting new missiles in Europe solves nothing.

Opponents of the Carter administration have wisely attacked the installation of the new missiles as contributing to the arms race and increasing tensions with the Soviet Union. But like the administration, these critics too have neglected the central issue raised by the missile plan: the obsolescence of the theory of extended deterrence in an era of strategic parity. We do our European allies no favor by pretending that the Soviet missiles aimed at them pose no threat, but we hurt them even more by multiplying nuclear assurances we cannot —and should not—mean to keep.



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**The value-added tax**

# *Fleecing citizens behind their backs*

***IN THESE DAYS OF TAXPAYERS' REVOLTS,*** politicians know that they can raise tax rates only at the risk of their careers. But some taxes are more visible than others. At one end of the visibility scale are payroll taxes: The precise amount extracted from a worker's wages is recorded on each paycheck, regularly rubbing the taxpayer's nose in the fact that an ever-growing proportion of what he makes is not his to keep. This overt deprivation is painful for him, which may in turn cause pain for the legislator who hopes to represent him. At the other end of the scale are hidden taxes: ones that, ideally, ratepayers have no idea they are paying. These taxes are just the sort politicians have long cherished, providing, bluntly put, a way to rob the citizen while he is not looking.

Such a tax is the value-added tax (VAT), now being advocated by the two senior tax legislators in Congress, Russell Long, chairman of the Senate Finance Committee, and A Ullman, chairman of the House Ways and Means Committee. VAT has a long history of use throughout Europe, and it is not exactly a new idea in the United States. In 1972, Richard Nixon became enamored of it, proposing a 3 percent tax on every sale of every product, not just to the ultimate consumer but at every step of production along the way. Each producer or seller would pay a tax based on the amount by which he had increased the product's value. Every business handling an unfinished product, under a VAT, would add on the tax when it passed the product along. This could happen a dozen times in the life of a product, from the first stages of production to final sale—usually with the tax built into the price the final buyer pays, thus masking the fact that he's paying a tax at all.

Long and Ullman have recently resurrected this scheme but this time at a 10 percent value-added rate. Ullman's version would partially replace the social security payroll tax Long's would totally replace it, and would partially replace the personal income tax.

Most liberal attacks on VAT have, justifiably, centered on the fact that it is regressive, in that everyone is taxed the same amount on each purchase. The blow thus falls hardest upon the poor and middle income consumers, who end up paying a proportionally higher share of their incomes in VAT than do the rich.

This it would certainly do, but it would wreak more mischief besides. For not only would VAT side with rich taxpayers against poor, it would favor big businesses against small. Every business will be burdened with the costs of keeping records and making collections for the government. Clearly small firms will be less able to bear these extra costs than large ones. But more subtly, big businesses that can combine two or more steps of production (in the case of the big oil companies oil producing and refining) are able to make only one combined payment, thus at least halving their costs of record keeping.

Corruption will probably be rife under VAT. Businesses figure what they owe in taxes by multiplying their total sales by the tax rate and then deducting any VAT they had paid when they made purchases from a supplier. Obviously one easy way for a business to cheat on taxes is to submit phony invoices showing more purchases than really were made. In Europe such practices have become a way of life.

And the transition to VAT will be especially hard on an economy in a recession, as artificially high prices on products will dampen already sluggish sales even further. New and creative companies, facing high start-up costs and low initial profits anyway, will find their paths that much rockier as their costs increase proportionally more than those of their established competitors.

Let's tally up the score: The losers in a value-added tax would include the poor and the middle class; also honest firms, small businesses, and young and unusual businesses. VAT's winners would include the rich; also dishonest businessmen, big business, and old and conventional businesses.

The biggest winner of all, of course, would be the government, enriching itself in a way that would turn the ire of fleeced citizens not against Washington, but against each other. Surely this insidious tax should be relegated to an exile at least as complete as that of the American President who first proposed it.



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NAT HENTOFF

# Justice in the cuckoo's nest

*Whatever powers the Constitution has granted our government, involuntary mind control is not one of them, absent extraordinary circumstances.*

—Federal District Judge Joseph Tauro, *Rogers* v. *Okin et al.* (1979)

JOE TAURO, A GREGARIOUS alumnus of Massachusetts Republican politics, was appointed a federal district judge by Richard Nixon in 1972. Among his passions are jazz, particularly the big bands of the swing era, and the Bill of Rights. "I really believe in this stuff," he once told me. "I mean, everybody's right to be left alone, and everybody's right to speak his mind."

In a notable 1978 decision ["The right to read," December 11, 1978] Tauro delivered a mighty First Amendment blow against censorship of school libraries by members of school committees acting as agents of the state. But his most venturesome expansion of individual liberty took place in October 1979, when Tauro declared—for the first time in any court—that mental patients, both voluntary and involuntary, have a constitutional right to refuse mind-altering medication except in an emergency when there is "substantial likelihood" of the patient becoming so violent as to injure others or himself.

The case, *Rogers* v. *Okin et. al*, had been in the courts since 1975. When it finally did get to trial, that took 72 days, with more than fifty witnesses and more than eight thousand pages of transcript. And as an epilogue, there were over 2300 pages of post-trial briefs. Tauro then took the better part of a month, at home, to consider and write his decision. "I wanted to get to it as quickly as I could," he told me, "because if you wait too long to write about a long, complex case, you lose the feel of it. And, knowing this decision was going to have an impact, I wanted to make it as clear as I could."

The plaintiffs were seven patients at Boston State Hospital, in the Dorchester section of Boston. Represented by Greater Boston Legal Services, they charged that over various periods of time they had been forcibly medicated in nonemergency circumstances. That is, they were compelled to take drugs as part of their treatment. They did not assert that their right to refuse such treatment is absolute, conceding that the hospital can impose medication "in order to protect their safety or that of other patients and Hospital staff." But *only* in such emergencies.

The fourteen defendants—psychiatrists and others on the staff—maintained that committed mental patients have no constitutional right to refuse treatment in either an emergency or a nonemergency situation. After all, that has always been the state of the law concerning mental institutions throughout the country. Once you're behind those walls, you're assumed to be incompetent and thus not capable of making a decision as to what kind of treatment you should or should not have.

THE MEDICATION PRINCIpally at issue in the case is the usual array of antipsychotic drugs used routinely and often all too liberally on incarcerated mental patients, whether in hospitals or in actual prisons. Also referred to as neuroleptic or psychotropic drugs, these powerful potions—Thorazine, Mellaril, Prolixin, and Haldol in this lawsuit—affect chemical transmissions to the brain. "Because the drugs' purpose," Judge Tauro wrote in his decision, "is to reduce the level of psychotic thinking, it is virtually undisputed that they are mind-altering." They can also have exceedingly unpleasant, and sometimes dangerous, side effects. A patient who has experienced these side effects is often desperately anxious not to have to undergo them again.

Judge Tauro's decision in *Rogers* v.

*NAT HENTOFF writes a monthly column on civil liberties for INQUIRY. His book* The First Freedom: A Tumultuous History of Free Speech in America *will soon be published by Delacorte.*



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*Okin* is 162 pages long. After laying the factual groundwork in the first quarter of the text, he begins to work toward his breakthrough conclusions. First, Tauro emphasizes that being committed to a mental institution is not synonymous with being legally incompetent. Indeed, under Massachusetts law, a mental patient, although committed, "is nonetheless presumed competent to manage his affairs, dispose of property . . . and even to vote. That presumption of competency prevails unless and until there has been an adjudication of incompetency by a court, following notice and hearing."

Accordingly, Tauro concludes, such patients are also competent to accept or refuse mind-altering drugs. The defendants, of course, resisted this notion vigorously. In a footnote, Judge Tauro rather mischievously observed that "at final oral argument, defendants took the position that, although a committed mental patient would be presumed competent to deed his home to his doctor, he would not be presumed competent to decide whether to follow that doctor's advice concerning the taking of medication. Such an argument would make a doubter of even the most credulous."

But what if a patient *is* declared incompetent by a court? Surely then the doctors can drug away. Not so fast, said the judge. In that event, the court must appoint a guardian, and the guardian will have the power to decide whether or not the patient can be forcibly drugged. Even an incompetent has the right to be free from "unwarranted government intrusion," and the guardian is "a means for protecting that freedom."

The doctors in the dock stoutly maintained, however, that no lay person, whether patient or guardian, has the knowledge to be involved in treatment decisions. "That argument," Judge Tauro said sharply, "is presumptuous and inconsistent with the increasingly accepted doctrine of informed consent which recognizes that lay persons are presumed to have the capacity to make treatment decisions." The judge further deflated the argument that physicians must be all-powerful in these matters by noting that medical malpractice cases are routinely decided by "juries and judges, traditionally non-medical persons." He then came to the constitutional foundations of his decision. To begin with, there is the Fourth Amendment right to privacy, "the root premise" of which is that "every human being of adult years and sound mind has a right to determine what shall be done with his own body" (*Canterbury* v. *Spence*, D.C. Circuit, 1972).

Going back to the defendant doctors' claim that a mental patient is legally able to deed his property to his doctor but cannot refuse his doctor's medication orders, Tauro declared that surely the right to decide as to his property "pales in comparison to the intimate decision as to whether to accept or refuse psychotropic medication—medication that may or may not make the patient better, and that may or may not cause unpleasant and unwanted side effects. *The right to make such a decision is basic to any right of privacy.*" (Emphasis added.)

Where, however, does the First Amendment fit into this bar on forced medication of mental patients? Why, said Judge Tauro, "it is clear from the evidence in this case that psychotropic medication has the potential to affect and change a patient's mood, attitude and capacity to think."

*AND THERE IT IS: "THE* right to produce a thought—or refuse to do so—is as important as the right protected in *Roe* v. *Wade* to give birth or abort. Implicit in an individual's right to choose either abortion or birth is an underlying right to think and decide. Without the capacity to think, we merely exist, not function."

Thought produces ideas, and the First Amendment protects the communication of ideas. Therefore, the *power* to produce ideas is entitled to just as much constitutional protection as the very communication of those ideas. If this is so, mind control is unconstitutional. "The fact that mind control takes place in a mental institution in the form of medically sound treatment of mental disease is not, itself, an extraordinary circumstance warranting an unsanctioned intrusion on the integrity of a human being."


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Review of Books

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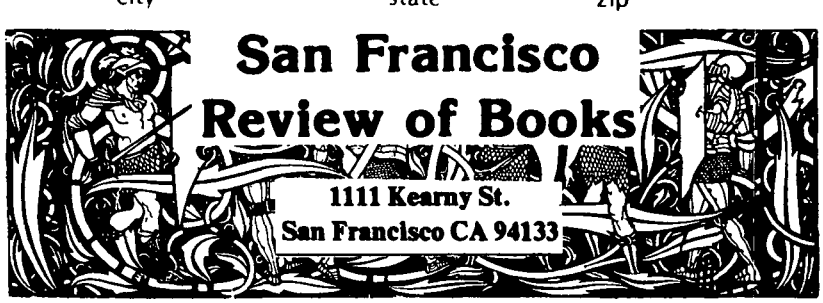







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Tauro pursued the dynamics of communicating ideas in this context. To be sure, "the concept of a therapeutic alliance between doctor and patient presumes a communication of information [by the doctor] as to the pros and cons of a particular treatment program." But the doctors in this case claim that patients will break that alliance if they are allowed to pick and choose the medication they want or don't want. Tauro was unpersuaded. "The committed patient has a right to be wrong in his analysis" of the information he gets from his doctors. He has a First and Fourth Amendment "right to be unwise." Wise or unwise, he cannot be forcibly drugged. He "has a fundamental right to decide to be left alone, absent an emergency situation," posing "a danger of physical harm to himself, fellow patients or hospital staff."

For, as Mr. Justice Brandeis stated in dissent in the first wiretap case to reach the Supreme Court (*Olmstead* v. *United States,* 1928): "The makers of our Constitution . . . conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

If committed mental patients have the right to refuse medication, Judge Tauro added, so certainly do voluntary patients. With either, "The desire to help the patient is a laudable if not noble goal. But, a basic premise of the right to privacy is the freedom to decide whether we want to be helped, or whether we want to be left alone. It takes a grave set of circumstances to abrogate that right. That a non-emergency injection in the buttocks may be therapeutic does not constitute such a circumstance. . . . Given the alternatives available in non-emergencies, subjecting a patient to the humiliation of being disrobed and then injected with drugs powerful enough to immobilize both body and mind is totally unreasonable by any standard."

There were other defense arguments to be disposed of. One of the results of drugging patients, it is maintained, is that their hospital stays tend to be shorter. "It might be less expensive," Judge Tauro acknowledged, " for the state to deny, rather than recognize," the right to refuse treatment. "But, factors of convenience and cost have long been regarded as inadequate justifications, standing alone, for a state's failure to recognize and respect constitutionally protected rights."

There was another basic theme in the defendants' arguments: What business does a federal court have getting involved with the treatment decisions of a hospital staff member? This is like saying, Tauro practically snorted, "that once there is confinement in prison, there can be no judicial scrutiny as to the conditions of confinement." Or, as Chief Judge David Bazelon of the D.C. Circuit Court of Appeals put it in a more directly analogous case: "It makes little sense to guard zealously against the possibility of unwarranted deprivations prior to hospitalization, only to abandon the watch once the patient disappears behind hospital doors."

*IN ONE RESPECT, TAURO'S* decision was disappointing to the plaintiffs. They had asked for $1.2 million in damages against the fourteen psychiatrists and psychologists at Boston State Hospital, as well as against the state commissioner of mental health, Robert Okin. Tauro found that the defendants had acted in good faith and so were immune to damage claims of negligence and malpractice. "The defendants desired only to help plaintiffs." The medication practices "were intended as treatment, not punishment. The prime constitutional issue here—the right to refuse treatment—was not one that a doctor was bound to anticipate in 1973" (the year in which these particular forced druggings took place).

But from now on, the staffs of state mental institutions in the First Circuit (Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico) are on notice that forcible drugging is unconstitutional, and a "good faith" defense is going to be much harder. And physicians in state hospitals elsewhere in the country will have to cope with the consequences of Judge Tauro's decision if other judges in other circuits find his logic persuasive. Meanwhile, both sides of *Rogers* v. *Okin* will appeal—the plaintiffs because their lawyers believe, as one of them put it, that Tauro "made bad law on damages." That attorney is, however, delighted by the rest of the decision. "Along with everything else," he says, "this is an extraordinary advance in First Amendment law. No judge ever did that before with regard to forced drugging." And that's why the state is going to appeal—to roll back this subversive extension of individual free will.

In the *National Law Journal,* Robert Plotkin of the Mental Health Law Project in Washington, D.C., distills the significance of *Rogers* v. *Okin:* "Up until this time, the law has assumed that people in mental hospitals are per se incompetent and are incapable of deciding what kind of treatment they can have. This ruling stands that notion on its head. It recognizes that the decision on what to do with one's body is a right that can extend to mental patients."

Still, there are some unresolved strands. Near the end of his decision, Judge Tauro indicates that although he did not allow malpractice damages for the claim, among others, that the doctors did not fully inform these patients about the possible consequences of medication, he is troubled by the issue.

How can there be "informed consent" when a patient is not given sufficient information to know "the competing risks and benefits of medication?" Yet, as of now, "the scope of a psychiatrist's duty to inform mental health patients is not clearly defined." The defendants in this case argued that an institutionalized patient lacks the capacity to exercise informed consent as to his treatment, and that anyway, "disclosure of the potential side effects of his medication may not be in the patient's best interest."

On that point Tauro noted: "this court has already rejected defendants' notion of the presumed incompetence of committed patients to make treatment decisions. And, although disclosure of potential side effects of medication may be frightening to the mental patient, this court is not persuaded such a prospect, standing alone, justifies a failure to provide a patient with sufficient information to make an informed treatment decision."

There is, the judge said in a footnote, a physician's privilege to withhold information for therapeutic reasons. But that privilege "must be carefully circumscribed. . . .The privilege does not accept the paternalistic notion that the physician may remain silent simply because divulgence might prompt the patient to forego therapy the physician feels the patient really needs."

The teaching of this case, therefore, may extend beyond the walls of mental institutions to those "free world" patients afflicted with paternalistic personal physicians. (*Every* "human being of adult years and sound mind has a right to determine what shall be done with his own body.") But this is neither a First nor Fourth Amendment question, for the state is not involved in private doctor-patient relationships. Those patients, however, who *are* subject to the overly benign ministrations of the state have considerable reason to salute Judge Joseph Tauro, the dauntless constitutionalist. ❑



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PHIL STANFORD

# Iranian crisis brought home

I THINK I KNEW WE WERE in big trouble, when, on the fourth day of the crisis in Iran, I ran into an old friend from the antiwar movement down by Dupont Circle. He had bags under his eyes and he looked terrible.

"You know," he said, "I'm really depressed by this Iranian business. It's awful what will happen if the hostages are killed."

I asked him what he thought we should do.

"I would send in the Special Forces to rescue them," he said. "I would parachute them into the embassy."

I pointed out that this would be futile. The embassy where the hostages were being held was surrounded by thousands of very angry people. Not only would the Special Forces troops be slaughtered, but so would the hostages.

"I know," he said, "but it might prevent something worse from happening."

I said I didn't get it.

"You see," he said, "the longer this goes on, the more the pressure builds up. And if in the end the hostages are killed anyway, Carter doesn't have any choice except to launch a full-scale invasion of Iran. Or maybe use a nuclear weapon. It's better to do something now."

I told him I understood, but I didn't, then.

It would be difficult to overstate the outrage that swept across this country when our embassy and the sixty or so people in it were seized in Tehran on November 4. It was, as few public events ever are, an intensely personal experience for most Americans. The pictures, on television and in the newspapers, of the chanting mobs, with their captives bound and blindfolded, helpless as figures in a dream, touched something deep in the national psyche. The reaction was instantaneous and genuine. Kidnapping in the name of God or anything else is truly an abominable act.

At this writing, as the crisis enters into its fourth week, no one can predict what will happen. It seems clear that if any of the Americans now in captivity are killed, the response of this country will be swift and terrible. Perhaps some compromise that would allow both sides to save face can be worked out. Perhaps the shah will leave and the immediate crisis will blow over. But even if the hostages are released unharmed, Carter may find it politically impossible not to order some sort of military action against Iran. Either way, there is no obvious reason to be optimistic.

Since the day of the seizure, both governments have taken progressively tougher positions, but the basic issue remains the same. Iran, or the Ayatollah Khomeini speaking for Iran, demands that the United States send back the shah, who came to the United States to receive medical treatment. Then Iran will release the hostages. As Khomeini told Mike Wallace on "60 Minutes," the Iranians want to try the shah for what they consider his crimes against the people. "We want him back to show the extent of the crimes committed by this person during thirty-seven years of his rule," said the ayatollah. "Why was it that he was killing so many people? Why was it that he was massacring? Why was it that he thought he had a mission to accomplish, by killing the people, by oppressing them?"

For Khomeini and the students who hold the hostages, the shah's return is not negotiable, and they say they are prepared to die if necessary. As most U.S. commentators see it, Khomeini is a religious fanatic. This explains his unwillingness to listen to reason.

The United States, on the other hand, absolutely refuses to consider handing over the shah. This, as it is explained, is a matter of principle. As Carter told the AFL-CIO convention on November 16, "The actions of the Iranian leaders and the radicals who invaded our embassy were completely unjustified. They and all others must know that the United States of America will not yield to international terrorism or to blackmail." Carter elaborated. "We are dedicated to the principles and the honor of our nation."

The United States is as unyielding on the matter as is Iran. But of course, no one has suggested that we are being fanatical.

On the sixteenth day, Abolhassan Bani-Sadr, then Iran's Acting Minister of Foreign Affairs, suggested that the hostages might be freed if the United States would agree to having the shah tried by an international tribunal. He was quickly denounced by the students, but there are those who think that some sort of modern-day version of the Nuremberg trials is still a possible solution. George Hansen, the conservative congressman from Idaho, made a similar proposal when he visited the hostages in late November. Hansen, however, called for a congressional investigation. "I tried to tell them," said Hansen later, "that you've got to sit through a congressional hearing sometime and watch someone get dissected with a scalpel real good over a period of weeks and months to appreciate that's a pretty good forum and it will get to the bottom of things."

It is safe to say that this is not exactly what the Iranian students have in mind. As they are probably aware—if the American public is not—Congress has held hearings on Iran before.

In 1976 a House subcommittee heard witnesses on the question of human rights in Iran. One of them, a William J. Butler, of the International Commission of Jurists, testified about the total lack of political liberties and the brutal repression of dissidents in Iran. At that time there were, he said, approximately six thousand political prisioners in Iran, many of whom had been subjected to torture.

Another witness was the Iranian poet Reza Baraheni, then living in exile in the United States. According to Baraheni, thousands of persons had been executed during the twenty-three years of the shah's rule. Since 1957, when the SAVAK, Iran's secret police, was created, more than 300,000 people had been imprisoned. Baraheni quoted an Anmesty In-

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ternational report that placed the total number of political prisoners in Iran at "anything from 25,000 to 100,000."

Baraheni also told the committee about his own experiences in prison. In 1973, in retaliation for his book that criticized the shah's regime, Baraheni was arrested and tortured. He was beaten with a wire whip, his fingers were broken, and he was told that unless he confessed, his wife and daughter would be raped in front of him. After 102 days he was released from prison.

Another document presented to the committee quoted a newspaper account of a report by a French lawyer, Yves Baudelot, who was sent in 1974 by the International Association of Democratic Jurists to investigate conditions of political prisoners in Iran. "According to the prisoners that Mr. Baudelot could question, and who have undergone the torture cruelty," said the article, "the most frequently practiced are the following: scourging with a metallic whip, metallic table heated white-hot on which the prisoner is extended, burns from cigarettes, electric charge to the sex organs, hanging up by arms to the ceiling, and introduction of a broken bottle in the anus." The article also described how tortures are practiced on prisoners' families. One former prisoner told Baudelot about "a woman who was raped in front of her husband, of a 17-year-old given a whipping and subjected to the electric torture in front of his father, of a 4-year-old child whipped and whose neck was cut in front of his mother. One of the persons questioned by the lawyer told him that it had been so unbearable for him to see his son tortured that he had wished he had a knife to kill him rather than watch him suffer."

The same volume in which this appears contains a letter signed by an official of the Nixon administration:

"We are aware," says the letter, "of many accusations of use of torture or brutality by Iranian authorities, but have not found any significant evidence to corroborate those accusations or to define such practices, if they exist."

None of this, of course, is to deny that the shah could not also be fun and games. In 1960 he published a book of his own, entitled *Mission for My Country*, in the course of which he praised Iran's two-party system. As *Newsweek* once noted, however, one of them was the "Yes Party" and the other was the "Of Course Party." Nevertheless there were, count them, two political parties in Iran. In his book the shah said that any ruler who would limit his country to a single party would be a Hitler or a Mussolini.

In 1975, the shah formed a new political party called the Resurgence party, which he decreed would henceforth be the only political party in Iran. Anyone who did not enter the new political party, said the shah, would be considered a traitor. "Such a person belongs in an Iranian prison, or if he desires, he can leave the country tomorrow without even paying an exit fee, and can go anywhere he likes because he is not an Iranian, and he has no nation, and his activities are illegal and punishable according to law."

And then, to avoid possible embarrassment, the shah banned his own book, and had it removed from every library in the country.

Outside the embassy in Tehran the mobs shout, "Death to the Shah. Death to Carter." Considering everything, it is not too difficult to understand why they are ticked off at the shah. It is also understandable that they would be angry at the United States. It is at this point indisputable that the CIA was responsible for the coup that in 1953 overthrew Premier Mohammed Mossadegh and brought the shah back to power. It is also well known that the CIA, with the assistance of Israeli intelligence, created the SAVAK. Over the years, Iran has been a virtual fiefdom of the CIA, and was seen as a model of the benefits of a good covert intelligence operation. Covertly and overtly, the United States has supported the shah. Under Nixon and Kissinger, Iran was to be one of the "twin pillars" of U.S. support in the Middle East, and was supplied with billions of dollars worth of high-technology weapons.

But Carter? Surely the Iranian students are mistaken. Why should they hate Carter?

Perhaps at least part of the reason may have to do with the way Carter, the spokesman for human rights, embraced the shah in the White House in 1977. And part of it can be explained by the fact that it was Carter, finally, who permitted the shah to enter the United States. To even an impartial observer, either act could be taken as evidence of the United States' continued support for the shah and for his brutality toward the Iranian people.

There is, however, another possible explanation.

It was early morning, September 8, 1978, when the crowd began to assemble in Jaleh Square in downtown Tehran. By 8 A.M., the numbers were already in the thousands. In a year of protests against the shah's rule, which began in January of 1978 with the death of twenty persons in the holy city of Qom and then spread to the rest of the country, the



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crowds gaining in size and strength each month, this was to be one of the largest. As was usual in these demonstrations, the crowd in Jaleh Square was unarmed. It was also quite unaware that at seven o'clock that morning the shah had declared martial law in Tehran and eleven other Iranian cities, making it illegal to hold public demonstrations against the government.

At 9 A.M. the crowd was told to disperse. Instead, many of the demonstrators sat where they were. Others began walking toward the soldiers, some carrying flowers that they intended, as in previous demonstrations, to give to them. They never got there.

The soldiers opened up with machine guns and semiautomatic rifles. Helicopter gunships joined in. According to some accounts, the massacre lasted twenty minutes, and when it was over the bodies lay in piles. The lowest believable estimate of the dead that day in Jaleh Square is five hundred to eight hundred. Those working from hospital death certificates and graves in a nearby cemetery place the number at three thousand to four thousand.

Two days later, Jimmy Carter called the shah from Camp David, interrupting the discussions with Begin and Sadat, to reassure him of the continued friendship and support of the United States.

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On the twentieth day, a spring-like Saturday in November, I passed a sidewalk vendor in Georgetown selling T-shirts that said NUKE IRAN. He was wearing one of the T-shirts himself, smiling over the mushroom cloud and the words on his chest.

"That's really smart, " I said. "Do you have any idea what a nuclear war is?"

He shrugged. "It's only a T-shirt, man."

Maybe he wasn't serious, but there are lots of people around here who are. If not about dropping the big one now, at least a lot of small and medium-sized ones. Nor is it only the conservatives who are salivating over the prospect of a few well-placed punitive air strikes against Iran. Liberals, many of whom couldn't really get into Vietnam, are full of righteous indignation too. And the old Vietnam antiwar crowd, apparently unable to deal with a situation in which both countries are guilty and both aggrieved, is confused and silent. If war comes it will be a popular one indeed.

**POLITICS**

*PETER SCHRAG*

# A nongovernor who would be nonpresident

*JERRY BROWN PROBABLY* always knew there was a terrible flaw in liberal politics, but he's never known what to do about it. Brown, indeed, has never even been certain whether the flaw really lies in the liberal part of it or in the politics part of it. Many people of his generation do not, and so they join organizations like Common Cause—but he suffers more from the affliction than do most. Thus while most of the press, particularly the California press, regards his famous vacillations as just another political slalom—the twists and turns of expediency—Brown seems to detest the compromising through which ordinary politicians earn their living as much as he hates the clichés and slogans of his liberal heritage. That he often engages in both seems to be not so much a matter of choice as of an irresistible impulse. What else explains Brown's appointment of a one-time POW who was accused of collaborating with the North Vietnamese to a supervisor's post in—of all places—Orange County? What other possible reason can there be, five days into his penurious official campaign for the presidency, for Brown's sudden disappearance from his nervous entourage to spend an afternoon with an Indian holy man at an "International Conference on Transpersonal Psychology"?

When Brown first became governor of California in 1974, all of that was charming, even refreshing: the ringing declarations, for example, that until the educational bureaucracy became more productive he wasn't going to give it any more tax money; the attacks on the mental health establishment; the flirtation with the ideas of Illich and Schumacher; the search for antipoliticians to head some of the state's major offices and fill some of its more powerful jobs. It was even charming in 1976 when he flashed in the pans of a few presidential primaries. But now that he pretends to be a serious candidate for president it is no longer charming or even interesting. It is only boring and tacky.

In the 1980 campaign, officially launched last November 8 from a lectern in Washington adorned with the words "Wow! Brown Now," Brown has declared himself a sort of political scavenger waiting to feed off the entrails of his Democratic rivals, should one of them be eliminated from the race. That sort of strategy isn't new, particularly for a candidate who trails badly in the polls, nor is it particularly flattering to one who prides himself on his fresh brand of politics. But it is a strategy particularly fitting to a major officeholder who has swooped around and over the battles of national politics without leaving much more than his droppings. There is little in the public record to show that Brown has been governor of the largest state in the union for the past five years (or indeed of any state), nor can one detect from anything occurring since his reelection in 1978 that anyone, either in California or elsewhere, considers him a major force in American politics. One way or another, he has lived off the political initiatives of other people: Cesar Chavez, Howard Jarvis, Tom Hayden.

The real irony for Brown, the great critic of bureaucrats and big-government solutions, is that his own tenure as governor has been closely tied to a network of new bureaucracies so large and intrusive that they may properly be classed as a whole new layer of government. Some of them—the Agricultural Labor Relations Board, for example—were created by his administration; others, like the state Energy Commission, were approved just before Brown came into the governor's office. But they have become what they are—and in most instances that means extremely active—under his appointees and through his influence. And while Brown has talked a great deal about eliminating useless agencies, reducing the state budget, reforming the $4 billion Medi-Cal program, and a variety of other measures to streamline state government, he has never really had the patience to administer the state government, let alone reform it. Thus while Brown the candidate may legitimately be able to claim that under his direction

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California has taken the lead in developing state programs in energy, conservation, environmental protection, and the regulation of farm labor, he cannot possibly make those claims without also acknowledging that California has vastly enlarged government intervention to do so. For a man who pretends to be philosophically opposed to expanded government, it's a real tightrope act.

*BROWN HAS NEVER MADE A* secret of his contempt for the ordinary activities of ordinary state government. Since his election in 1974, however, he has institutionalized this attitude in a set of high-level appointments which, even if they are expressions of affirmative action, are also arrogant declarations of a belief that any amateur can administer the state Department of Health, mental health system, or any other state agency. As a practical matter, Brown's appointments almost unfailingly reveal his belief that since a lot of public agencies are run by time-servers and fools, they might as well be chicano fools or female fools.

A different governor with a similar concern for affirmative action might also have made Rose Bird—or another woman without judicial experience—a justice of the state supreme court. But he surely would not have given her the additional burdens of the post of chief justice and the responsibilities of administering a judicial system that was certain to be hostile to her presence. Bird has just barely survived in her post, but both she and the state's judiciary have been damaged.

Many of Brown's affirmative-action appointments—particularly the women—haven't turned out to be nearly as incompetent as the old bureaucrats and courtiers in their respective departments tried to make them out to be, but they still haven't gotten any more support or attention from Brown than he gives the rest of his neglected administrative responsibilities. Indeed, one of the distinguishing marks of Brown's regime is that it consists largely of a series of semi-autonomous departmental baronies—health, food and agriculture, the various environmental agencies, transportation—each pursuing its own legislative program and administrative course without much regard for the others or direction from the governor. In perhaps the classic example of administrative noncoordination, Brown asked Assemblyman Bob Naylor to carry an airline deregulation bill through the legislature. Naylor obliged, and managed to get the bill through both houses—only to learn Brown had vetoed it. The governor, it later turned out, had been listening to one administrative agency when he made the request, and to another when the bill reached his desk.

Brown treats the resulting (and often inevitable) maladministration as something that doesn't concern him—the problem of another state perhaps, or of some other administration. On the one hand he thus complains incessantly about waste in government; on the other, within his own Health and Welfare Agency he tolerates political and administrative disasters so enormous that, at the very least, they long ago would have justified a major shake-up and the dismissal of a secretary of health and welfare, Mario Obledo, who appears so supremely incapable of doing anything about them.

Many of those disasters have taken place in and around the state's Medi-Cal program, which is troubled with chronic waste and fraud. Prepaid health plans, once touted by Brown as the solution to ever-increasing Medi-Cal costs, have also been troubled by a series of rip-offs. Despite repeated studies, reports, and recommendations of various state commissions and committees, Obledo seems unable to confront, much less eliminate, any of these problems. An even more revealing administrative catastrophe was Brown's badly bungled attempt to fire a lesbian in the Health Department—one of the best administrators in that agency—on the flimsiest of grounds. (The woman wrote a private letter on state stationery, using some scatological language, and an office enemy stole a copy out of her files and reported it.) The irony of that episode, which ended with the woman's reinstatement by the state Personnel Board, is that it reflected a conflict between two sets of minority values—macho chicanos vs. gay females—that Brown tried to solve by siding with the more powerful political element. Since Obledo is regarded as a key to Brown's hold on the chicano vote, his position is particularly secure. Yet Brown's aristocratic neglect of the problems in health, Medi-Cal, mental health, and social services is no different in kind from his disregard of other major administrative problems. The only difference is that Obledo's agency and its problems are much larger.

**The Brown bureaucracies form a large and intrusive new layer of government in California.**

*BROWN, THE SUPREME* antipolitician, is the ultimate product of the apolitical suburban politics of the fifties and the movement politics of the sixties. That mix of politics generally prefers outsiders to insiders, amateurs to professionals, philosopher-reformer-professors to practitioners. It disdains compromise—the very essence of successful politics—as somehow demeaning and dirty, and it adores planning. It is thus especially consistent with single-issue, special interest politics—with movements and groups that also disdain compromise and that, while they may make temporary alliances, will not modify their own positions or pursue other causes.

Brown has assembled his California constituency out of such groups—environmentalists, Proposition 13 tax rebels, farm workers, chicanos, feminists, a handful of unions, space freaks—and he negotiates among their uncompromisable positions by trying to create a political mosaic made of mirrors and little chips of political tile. By definition, real compromise or deferral won't work, and thus conventional political administration is unnecessary. What is necessary is symbolism—jobs for minorities, brave (but ineffective) stands for public funding for abortions, appearances at anti-nuclear rallies, buzzwords, and to cap it all, a ringing call for a constitutional convention to balance the federal budget.

Now, as a presidential candidate, Brown pretends to see himself as a latter-day Andrew Jackson or Franklin Roosevelt, forging a new coalition out of such groups, offering something to replace what he calls debased political language and values. Yet so far he has been able to offer his "insurgent movement" nothing but a triad of bloodless generalities—"protect the earth, serve the people, and explore the universe"—that indicates just how hopelessly far he is from the movement he hopes to create.

Temperamentally and intellectually, Brown has always been the outsider, the critic, the analyst. He understands the



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rhetoric and the reasons why conventional liberalism is in such bad shape; he knows almost instinctively that the assumptions of unlimited economic and social growth that once sustained conventional liberalism can no longer be taken for granted. At the same time he is incapable of making the choices that the realization requires: He offers semimystical futures in space, a metaphorical "era of limits" on earth, and a great many little political chips and mirrors in place of vision.

It has been pointed out that even after nearly four years in the White House Jimmy Carter is still running against Washington. Just as accurately it can be said that after nine years as a high state official—four as secretary of state, five as governor—Jerry Brown still runs against government. In that respect he resembles superficially the man he seeks to replace. Yet while Carter's rhetoric is ultimately skin deep, Brown's contempt runs to his very marrow. Carter really would like to be president if only he knew how. Brown is running only because the compulsion of the political critic—the public prophet—drives him to it. If, by accident or inadvertence, he ever comes close to the White House, he will find a way to rise above it.


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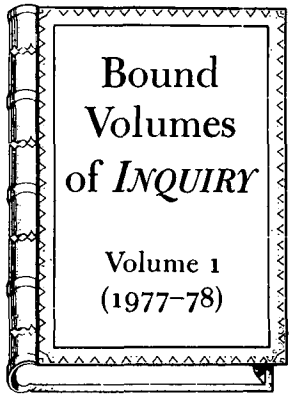


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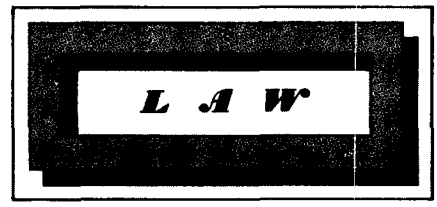


*CLAUDIA WRIGHT*

# Toying with extradition

*THE STATUE OF LIBERTY* is still standing out there, asking for "your tired, your poor, your huddled masses yearning to breathe free." But in practice we only want some of them. Any Soviet, regardless of whether he has any salable skills, money, or even American relatives, is always welcome. So are Cubans. Haitians, however, are beyond the pale. The shah can come here, but his youthful former subjects can expect public abuse at best and deportation at worst. Israeli Jews are protected, but Palestinian Arabs are not. Ask 19-year-old Ziad Abu Ain, a native of Israeli-occupied Jordan now sitting in the Cook County jail. Ziad faces extradition to Israel on charges of murder and terrorism, and he may well have to go back—not because of the flimsy evidence the Israelis have been able to produce against him, but because the U.S. State Department wants to prove a point.

The Israeli government alleges in its formal request that on May 14, 1979, Ziad was responsible for placing a bomb that was detonated in Tiberias, a city on Israel's Sea of Galilee; it killed two people and injured thirty-six. The evidence against Ziad is a confession given by a friend of Ziad's to Israeli interrogators after several weeks in prison. The only other evidence the Israeli authorities have sent to the United States is a statement by a young woman who told police that she had carried letters between Ziad and his friend—without knowing what they said—and had been the go-between for the friend and a Fatah official in Syria. Both thought Ziad was safe at his sister's house in Chicago when they made their statements without legal counsel, witnesses, or translators.

* * *

International extradition is a tricky and ill-defined area of American law. The leading case involves a Yugoslav request in 1951 for the extradition of a Croatian accused of ordering the murder of thousands of civilians in 1941–42 during the short-lived Ustachi regime. After eight years of litigation the courts denied the request. One reason was that the evidence against the accused, collected in a Yugoslav hearing, was hearsay and thus considered unreliable. The American judge said he thought the Yugoslav court had pressured the witnesses into making unsubstantiated allegations. The second reason was that whether or not the Croatian had committed the crimes, what he had done was "of a political character and therefore not extraditable under the treaty."

The court wrestled with the problem of defining this "political character," and decided that "it is an offense against the government itself or incident to political uprisings." The fact that the murders were of civilians was not considered relevant either way. For Andrija Artukovic, who had been a minister of internal affairs (security) in the independent state of Croatia, extradition was avoided because the crimes he was charged with were "in furtherance of one side or another of a bona fide struggle for political power."

Artukovic's case was decided in 1959. Last May, just three days before the explosion in Tiberias, the federal district court in San Francisco reiterated the exception for political offenses in refusing a British government request for the extradition of Peter McMullen, a Provisional IRA member wanted for the bombing of the Claro army barracks in 1974. In a decision that apparently took both the British and the U.S. governments by surprise, the judge found that the IRA conducted "terrorist or guerrilla activities," but that these were "acts of political violence with a political end."

Once the defendant offered the evidence that his activities were covered by the political exception, the court told the government, the burden of proof shifted to the prosecution to rebut it. As neither the British extradition documents nor the U.S. Attorney offered any rebuttal, McMullen was safe. "Even though the offense be deplorable and heinous," the judge ruled, "the criminal actor will be excluded from deportation if the crime is committed under these [political] prerequisites." Subsequent events indicate that shortly afterward the State Depart-

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ment's Office for Combating Terrorism and members of the cabinet-level Special Coordination Committee on Terrorism resolved that this ruling could not be allowed to stand. And so in September the Ziad case was singled out for a special effort to knock down the *McMullen* rule and perhaps erase once and for all the political exception to extradition requests.

*THE EXTRADITION REQUEST* from Jerusalem declares that Ziad crossed into Jordan on June 5 and "is believed to have travelled to the United States shortly afterwards, using a Jordanian passport." Attached were a photograph, fingerprints, and two statements given in prison to Israeli interrogators by Jamal Yasin, a friend of Ziad's, and Mufida Jaber, Yasin's cousin. According to the first confession, Ziad had driven Yasin's car to Tiberias on May 14 and planted the bomb that Yasin had given him. He drove up from Ramallah (a 90-mile trip), set the bomb's timing device for 1:30 P.M., and arrived back at Yasin's house by 4:30. Yasin told police that he gave Ziad a ride home at 5:30. The second statement adds nothing to this story, confirming only that after May 14, Jaber carried messages between Yasin and Ziad until Ziad left for Chicago.

Ziad's attorneys presented the court with nine sworn affidavits from Ziad's father and brother, four workers in the family factory and shop, a lawyer, two doctors, and the president of the Ramallah Islamic Club. These corroborated Ziad's account of his movements for every hour of the day, except between 6:30 and 8:30 P.M., several hours after the explosion occurred. His brother's wife had given birth in the early afternoon at Ramallah Hospital, and he had been on call at his father's shop from early morning until the celebrations began at 3 P.M.

When the extradition request was presented to U.S. Magistrate Olga Jurco, no evidence to support Yasin's statement was available from the Israeli government or the U.S. Attorney. There were no witnesses who had seen Ziad in Tiberias that day, no records of his transit, nothing to confirm the use of Yasin's Volkswagen, no evidence that Ziad had been with Yasin in the morning or evening, nor any corroboration of the claim that he planted and set Yasin's bomb.

* * *

Hearings began on September 6. A request by Ziad's lawyer to take a fresh deposition from Yasin in prison, with government attorneys present, was refused by the judge as "beyond the scope of the jurisdiction of this court."

Under current American extradition law, the court must decide two issues. The first is whether there is probable cause to think that the wanted man committed an indictable crime. This issue must be decided under the rules of evidence and the applicable law of the country where the proceedings are held, not the country seeking extradition. If the foreign court might convict the accused for something that isn't a crime in the United States—for belonging to a Palestinian political organization, for example, which is a crime in Israel—or if the United States doubts that the foreign legal process would be free of bias, duress, or torture, then the American court and the Secretary of State have some discretion in refusing extradition.

**The State Department set up a network of reporting on Arab students' "suspicious" activities.**

The second issue is whether the alleged crime comes under the political exception. The legal authorities have emphasized that in considering this, the court must decide for itself. In the *McMullen* ruling, for instance, the judge said: "We do not look to the Executive arm of the government, particularly the State Department, for a determination as to what this government considers an act of political offense . . . on the soil of a foreign nation." Thus, the courts have recognized that what looks like a common crime or terrorism from one perspective may be a political act or insurrection from another. To decide which applies in the individual case, the American courts have told the government that its opinions have no special relevance or authority.

There are several different accounts of how the State Department got involved in the Ziad case. An official from the department's Office of the Legal Adviser, who would not speak for the record, said that Magistrate Jurco had requested testimony from his department. If that's true, the court will have committed a serious error that would be overturned on appeal. More circumspect, David Korn, the director of the department's Office of Israel and Arab-Israeli Affairs, implied in a letter on September 20 that because "the case . . . is already under review by the judiciary branch in order to determine whether Mr. [Ziad] Abu Ain is extraditable," the State Department would not intervene until "the decision of the court."

A third version emerges from testimony given in court and from conversations with government officials and defense attorneys. This suggests a public hands-off position, combined with vigorous attempts at covert pressure on the court. The extradition request went initially to State Department attorney Knute Malmborg. He called in Louis Fields, an associate in the same office whose title is assistant legal adviser for special functional problems. His problems are terrorism and narcotics.

Fields has had a twelve-year career in the government, specializing at first in what he called "economic warfare" in Vietnam, and then, in the department's Legal Adviser's Office, in counterterrorism. By his own account, he has been the legal counsel to every director of the Office for Combating Terrorism since its inception. As this office grows more powerful during the Carter administration, Fields has overseen the preparation of tough antiterrorism legislation in Congress and of U.S. efforts to coordinate its measures with those of other governments.

*OVER REPEATED OBJECTIONS* to his testimony by the defense lawyers—overruled by the magistrate—Fields testified for the government on October 10 and 11. In his view, the May 14 bomb attack was a clear-cut case of terrorism. He testified that the U.S. government considered it indiscriminate murder of civilians. He himself believes that Ziad is guilty. As he told the court, the government has determined that the political exception does not apply in this case, and shouldn't apply to any case of terrorism.

However, as Ziad's attorney Abdeen Jabara argued, the Congress has yet to pass legislation defining precisely what it means by terrorism. In the absence of a vote, there is no statute to make the crucial distinctions that are the key to Ziad's fate. He is from Palestinian terri-



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tory occupied—without international legal recognition—by Israeli forces, and he is also a citizen of Jordan, which is still formally at war with Israel. By the terms of *McMullen* and the earlier court decisions, this means Ziad qualifies for the political exemption from extradition. (And if he is indeed a member of Fatah, as the Israeli-obtained confession says, it would only strengthen Ziad's claim to the political exemption.)

But when Jabara tried to introduce evidence and expert testimony on the political character of the Arab-Israeli conflict, on the history of Zionism, and on the PLO, the government objected, and Jurco refused to accept the evidence. When Jabara tried next to interrogate Fields on the government's interpretation of the conflict in Palestine and of the PLO, he was blocked again. When he tried to have the court direct the Israeli government to identify whether any of those killed or wounded in the explosion were regular or paramilitary forces, the court denied the request point blank. This may have been a serious error, for the terrorism bill pending in Congress expressly excludes from its definition of terrorism acts "committed in the course of military or paramilitary operations directed essentially against military forces or military targets of a state or an organized armed group."

Jabara says that the State Department's intervention in the Ziad case is without precedent. And the pressure has been so intense on Magistrate Jurco that at one point she appeared to concede her role as an element of the prosecution: "I believe that insofar as my hearing the evidence in this case, I do this, of course, for the Department of State and the Secretary of State." Neither Secretary of State Cyrus Vance nor Deputy Secretary Warren Christopher would respond to questions about their involvement. For them to say anything in advance of the ruling would destroy the veil that has been drawn discreetly over their plan and hazard later reversal. The most anyone will admit off the record is that the *McMullen* ruling was a major blow to the terrorism bureau, to State's new legal adviser Roberts Owen, and to the Special Coordination Committee on Terrorism functioning under the President's adviser, Zbigniew Brzezinski.

Ziad's case was almost certainly reviewed by each of these, and the decision to intervene undoubtedly made because they thought that the Chicago magistrate, a political appointee who normally handles bail bond cases and criminal arraignments, could be pressured into a ruling that would offset the San Francisco decision in *McMullen*. From a reading of the hearing transcripts and interviews with some of the participants, it appears that State Department lawyers had carefully prepared, researched, and rehearsed the local Department of Justice attorneys acting for the Israeli request, and that Fields was picked as anonymous enough to play the part of an expert witness.

In fact, his role was to communicate to the court that the government badly wanted extradition, and that major international commitments by the President hinged on what Magistrate Jurco did. Her decision will be released any day now.

* * *

"It's amazing," says Hisham Shirabi, a Georgetown University professor. "When the Israelis ask for extradition it's as if they push a button and all American security and legal powers go into action."

To deal with Arabs, Palestinians in particular, there are three ways in which Washington actively collaborates with the Israeli government. The first is to deny entry to Arabs seeking to enter the United States on visits, for study, or for legal immigration. Alexandra Johnson, formerly an officer at the U.S. consulate in Israel, testified at the Chicago hearing that her regular duties used to include keeping files on all Arabs arrested by the Israeli authorities, whether convicted or not. These, she said, were frequently the basis for denial of visas.

One method for controlling Arabs already in the United States is for the Immigration and Naturalization Service (INS) to initiate deportation proceedings on word from the FBI or from Mossad (the Israeli intelligence agency) that they may be members of anti-Zionist organizations, or may have taken part in demonstrations—even legal ones. In a current case involving Elias Khalil Ayoub, a young Palestinian graduate student in Cincinnati, the INS started deportation moves on the ground that his educational goals, the agency contended, could not be determined. Because his attorneys were able to sue the INS successfully under the Freedom of Information Act for the contents of Ayoub's file, they were able to learn that correspondence between the INS and FBI, and between Washington and Tel Aviv accused him of being a "subversive" and a member of the radical Popular Front for the Liberation of Palestine, a criminal offense in Israeli-controlled territory. The Ayoub file also revealed that since 1972 the State Department had taken concerted steps to set up a government-wide network of reporting on "suspicious" activities by Arab students. (A similar operation aimed at Iranian students was once carried out at the behest of SAVAK, the shah's secret police.)

In many of these cases deportation has the same effect as extradition, for the deportee faces almost inevitable prosecution on his return. But the burden of proof for the government is much simpler, and extradition is a protracted and expensive process that attracts publicity and is covered by clear constitutional guarantees.

Unwilling to abide by the decision in the *McMullen* case, the government has now turned to the deportation device to get rid of McMullen himself, and he has countered with an application for political asylum. In very similar circumstances, deportation proceedings have been begun against another Provisional IRA member, Michael O'Rourke. He was arrested in Philadelphia on November 6, nearly three years after his escape from a Dublin jail where he was serving time for membership in an illegal organization. Under the extradition law, he would almost certainly qualify for the political exception, but the only way he can defend himself against charges that he breached INS entry rules is to seek political asylum.

That privilege is automatically extended to the enemies of America's enemies, not to the enemies of its friends. After all, as one State Department official said about the Ziad case, we can't afford to become a haven for all the world's terrorists. Just some of them. ❑



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**The JFK murder case is not closed.**

# WAITING FOR JUSTICE

**More than a year ago, a congressional committee overturned the findings of the Warren Commission, and suggested the trail may lead to the Mob.**

## By JEFF GOLDBERG

"IT IS THE BEST OF TIMES AND THE worst of times," says a former investigator for the House Select Committee on Assassinations with a sigh as the sixteenth November 22 passes without an answer to the question of who killed JFK. The best of times, because the now disbanded assassinations committee took an important step closer to the truth by putting an official congressional stamp on a conspiracy verdict after years of inaction and cover-up, and because no one has yet come forward to seriously challenge the basic findings. But also the worst of times, because media indifference has led the public to believe nothing more can be done and the struggle to find the truth may die a lingering death from official neglect before it has a last chance to yield results.

One who says the investigation must not die is the man who directed the House probe, its former chief counsel G. Robert Blakey. Blakey is certain his investigation zeroed in on the only suspects. He is sure he uncovered enough evidence to satisfy history, if not a court, that organized crime killed JFK. He boils it down this way: "Any effort to explain that assassination has to include the fact of two shooters and the fact that Oswald was killed by Jack Ruby. Those are facts. They are not debatable anymore. Everything else is theory. I am sorry if this goes down hard or disturbs people who made up their minds that something else was true. I have looked at everything else I could find, in addition to those hard facts, and they all point in one direction. Ruby killed Oswald as a result of a desire to silence him. And Oswald killed the President for a motivation that was known only to Lee Harvey Oswald. But he acted in behalf of a desire on the part of elements of the Mob to get the Kennedy administration off their back. It's that simple."

Simple or not, most people are confused about where the matter stands. When the committee chaired by Representative Louis Stokes (D-Ohio) stopped investigating last December, just days after making public its sensational evidence, this was mistakenly read as an abrupt halt and therefore a sign

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# At first, Blakey was trying to prove that no shots were on the police tape.

that the Congress would not probe fully into this murky, festering area of national disgrace. Few knew that this was a specially appointed "select committee"—mandated and budgeted for only two years with no provision for renewal—that had planned all along to expire on December 31, 1978. More important, few understood that it was only a fact-finding panel, without prosecutorial power, that was set up to issue investigative and legislative recommendations.

If the case was to be pursued after the committee expired, all in charge agreed, the investigation would need the full range of powers and techniques available only to the Justice Department (or a Special Prosecutor). The next move is up to the department, but because of its long silence, few realize that it is in fact still deliberating whether or not to pursue the committee's leads.

Justice Department and FBI staffs closely monitored the committee's work since its inception in October 1976, and the current review of the final JFK report is being overseen by the department's Criminal Division. They have been aware of the committee's recommendations for almost a year now, and behind the scenes they have been preparing extensive option memos about what to do if a policy decision is made at the top to proceed.

The final decision is officially up to Attorney General Benjamin Civiletti and FBI Director William Webster. The Washington scuttlebutt is that both men favor pursuing the evidence, Webster more than Civiletti. Blakey knows both personally and believes they are men of "high integrity and great ability." He hasn't talked to either since the report was released, but predicts, "They won't let it die."

Six months ago the Stokes committee issued its thirteen-volume report concluding that "President John F. Kennedy was probably assassinated as a result of a conspiracy." Two hectic years of study, initially marred by internal controversy, finally brought forth a verdict that there were at least four shots fired at the President and thus two shooters, not the Warren Commission's three shots and a lone gunman. The commission had stated its conclusions much too definitively and was grossly misled by the FBI and CIA. Crime bosses Carlos Marcello in Louisiana and Santos Trafficante in Florida are now the prime suspects.

Though to some critics the Stokes committee's conclusions were not enough, or just another whitewash, in fact they were more than most felt the government would admit to at such a late date. The committee produced a scientific "smoking gun" showing conspiracy—a tape recording of the assassination—plus living conspirators to pursue. The Stokes committee report was an overturning of "official history," and a direct answer to the stalwart Warren Commission defenders and media voices who had been steadfast opponents of further probing.

The committee recommended that the Justice Department have qualified experts redo the acoustic analysis of the shots and have organized crime specialists recheck the evidence of Oswald's and Ruby's ties to organized crime.

Because the tape recording is generally perceived as "new" evidence that turned the committee around to a conspiracy conclusion, the department has made its first priority the confirmation of the finding that four shots were fired. FBI Director Webster has an in-house acoustics team that could finish the job in sixty days, but he is holding back, waiting for the department to hire outside contractors to complete the work first so that the initial news coverage would come from their impartial reanalysis. Only then would the FBI team come in with a second opinion.

Little information about progress in this area can be obtained from official spokesmen. "The review is still under way," is about all Justice spokesman Robert Havel would confirm. "No outside consultants have begun work yet and no time frame has been set." The FBI is even more noncommittal. "Our review is still going on," says FBI spokesman Dave Cassens. "We won't say anything until our report is completed, and even then any comments will come from Justice."

The signal to proceed awaits Attorney General Civiletti's approval. He is said to be grappling with such political considerations as how much it will cost, who he should put in charge, and whether the whole thing will end up making the department look foolish. A several-hundred-page report has been prepared for him outlining the project—names of contractors, expected time and costs, anticipated staff needs, and questions to be answered.

*NO ONE IS ABSOLUTELY SURE WHAT* the Attorney General will decide or when, but to better understand his quandary it is instructive to focus on Blakey: It is Blakey's leads and strategies that are being studied, and his opinion perhaps carries more weight than that of anyone else outside the department. He is also the only person with inside knowledge of the department's current thinking who will speak openly for the record.

Blakey is by all accounts one of the nation's most respected experts on organized crime. In the summer of 1977 he was called to Washington from Cornell University, where he was a law professor, to repair the badly damaged committee. Now 43, Blakey was chosen because he had proven Hill experience (chief counsel to a Senate judiciary subcommittee, 1969–73), impressive credentials from the past decade's major federal studies of organized crime and criminal law, and perhaps most significantly, four years service (1960–64) in the organized crime section of the Justice Department under then Attorney General Robert Kennedy. (He has also publicly spoken of the fact that he was with RFK at a meeting on the morning of the assassination.)

As a Kennedy loyalist, Blakey has a reputation among civil libertarians as a hard-line conservative in criminal law. This stems primarily from his work in the Senate as a principal author of the Omnibus Crime Control and Safe Streets Act of 1968, which set the standards for court-authorized government wiretapping and electronic surveillance. He worked to create this legislation because of his professional objective of giving law enforcement every possible edge in fighting organized crime.



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After directing the largest investigation in the history of the Congress, he has left Washington, and is back now teaching on the scenic Ivy League campus he left two years ago. His duties include directing Cornell's respected Institute on Organized Crime, where he trains future prosecutors.

Because of these credentials, and despite his backing of conspiracy evidence in both the Kennedy and King cases, Blakey has maintained a credibility in Washington that none of the Warren Commission critics has ever achieved. To those in high places he is now the E.F. Hutton of the JFK case —"When Blakey talks, people listen." "It all depends on how much he pushes it," emphasizes one of Blakey's ardent supporters. "No one else can do it but him. What he says goes now. Blakey has been slow in coming to this realization and shy in accepting this role. Until now he hasn't appreciated that he has a unique position of power and influence with the Congress, the department, and the Kennedy people. No one else has it."

Blakey knows this, but still plays down his status. "I am not going to make this a one-man crusade," he explained in a recent interview. "I gave it two years of my life. I did what I could within the context of the time and the ability that were available to me, and I'm going on with my life. I have other things I want to do." He emphatically adds he has no interest in heading any continued investigation (although he would surely be close by as a consultant).

Despite this reluctance to become ensnared by the JFK case, Blakey has found, like others before him, that it isn't easy to leave the case behind once you get the bug. And he has caught it. Much of his time is still spent preparing investigative leads for the department, talking to former staffers, answering reporters' questions, doing an occasional late night radio talk show, and answering the hostile articles and letters of former Warren Commission counsel David Belin, the most outspoken and visible defender of the lone-assassin thesis. The two are waging an ongoing debate on the pages of *National Review* and the *New York Times Magazine*. And Blakey's book —à la Leon Jaworski and Sam Dash—on his experiences inside the investigation is due some time this year.

So he is doing his part to keep the issue alive. "To see how poorly this was done in 1964 has been the single most soul-shattering experience that I have ever had," he says solemnly. "The investigation has fundamentally changed my life and my attitude toward my government and my society. And I would be deeply disappointed in the agencies of my government, and in the people who currently run them if the case was simply allowed to die."

Blakey is already disappointed in the media coverage of the committee. It has left him (and others from his staff), in his words, "frustrated and cynical." He is severely critical of all the big news outlets and their reporters for prejudging the committee's work and belittling any conclusions that differed from their own. "The press was pleased that there was a dissent in our report," says Blakey. (The members officially voted 5 to 2 in favor of the report.) "They emphasized the dissent, and thus said the report doesn't amount to anything. Then they walked away from it. I think that the management level people, who decide what is news and what's not news, have gone through the whole assassination coverage twice before—in 1964 with the Warren Commission and then again in 1967 with Jim Garrison—and they have learned to live with what they think is the answer. I don't think they have the time or energy to go back through and rethink it a third time."

The report Blakey left behind in July, although it will surely receive a great deal of criticism, has changed forever the way in which the details of the Dallas assassination must be viewed. The burden of the report is that the Warren Commission was wrong in its account of the murder. It thought a total of three shots were fired, all from behind, and that Lee Oswald fired them all. But now, space-age scientists hired by Blakey have said that there is a 95 percent–plus certainty that a fourth shot was fired from in front of the motorcade from the grassy knoll. Therefore, there were two shooters in Dealey Plaza and a conspiracy to kill the President.

This conclusion comes from an analysis of the Dallas Police Department Dictabelt recording made automatically through a microphone stuck open on a DPD motorcycle riding escort in the motorcade. This transmission recorded on tape the sounds of gunfire during the assassination.

*ORIGINALLY BLAKEY SET OUT TO* prove there were no shots recorded on the tape. To avert later criticisms, he wanted to be sure he thoroughly checked out the potential piece of hard acoustical evidence, though he suspected it would yield nothing. Instead, the experts found a fourth shot, which the staff immediately nicknamed "Blakey's problem." "That term meant," Blakey recalls now, "that we had to fundamentally reconsider everything—all of the evidence that had come before."

Blakey is confident he used the finest acoustics experts in the country to make the analysis. "They're the best," agrees a knowledgeable source at the Justice Department. "I think that's why they were picked." The consultants, who testified during televised hearings last fall, were Dr. James Barger, of the Massachusetts firm Bolt, Beranek, and Newman, and Queens College Professor Mark Weiss and his research associate Ernest Aschkenasy. Barger and Weiss do sophisticated work for the military, and previously had been appointed by courts to examine the Watergate 18½-minute gap and tape recordings of the Kent State shootings. Blakey calls their work on the Dallas tape "superb," and adds, "nobody could have done what Barger did but Barger. He and his firm are simply incredible. I stand in awe of their ability."

**The people who decide what's news are tired of rehashing the assassination.**

Not surprisingly, the proponents of the "lone-assassin theory" don't agree. Since the evidence became public, it has come under a concerted attack from Dallas police officers, unnamed FBI sources, Warren Commission lawyers, and conservative voices in the media and on the committee itself. These irreconcilables question the authenticity of the tape and charge that the analysis was wrong. They say the tape could not have been recorded in the plaza because there were other sounds (sirens, a bell, other voices, etc.) on it from a micro-



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phone outside the plaza. They argue that the officer identified by the committee as the motorcycle rider claims his radio was switched to a different channel from the one recorded on the tape. And they belittle the acoustics analysts as "self-appointed," "so-called," "purported" experts practicing an "arcane" science.

These objections are more on the order of delaying actions than seriously considered responses to the evidence. "No one who is reasonably qualified has so far challenged our work on theoretical or methodological grounds," says Mark Weiss.

And none of the criticisms deals with what is on the tape—the unique echo patterns of Dealey Plaza, making it an exact "acoustic fingerprint" that could be recorded nowhere else. And the irreconcilables don't explain how the four shots got on the tape or why they show up at the exact time the limousine is in position on Elm Street or why the calculated echo patterns move in exact synch with a microphone moving at the speed of the motorcycle, 11 mph.

Blakey and the experts are certain they have considered and rebutted all of the objections. For example, the bells heard on the tape are accounted for as other police microphones outside the plaza trying to break into, and then recording over, the motorcade microphone. These superimposed transmissions do not mean that the sounds of shots were transmitted from anywhere other than Dealey Plaza.

Blakey terms the fourth-shot finding a "scientifically irrefutable fact" and challenges his critics to prove him wrong. "Unless you want to believe something other than what your senses and intelligence tell you is there," he says combatively, "there is only one conclusion: 95 percent–plus. Those people who study it and don't agree with it are either dumb or biased."

Even the committee's dissenters, like Representative Harold Sawyer (R-Mich.), look forward to the Justice Department's rechecking of the tests. Sawyer anticipates this will refute Barger and Weiss, though he offers no evidence to back up his claim. Blakey confidently disagrees. "The feedback I get from the FBI is that they know it is going to come out our way," he remarks. "And they really can't afford to do a sham job, because ironically, anybody can do the rest. Anybody with a modicum of expertise as a mechanical engineer, a basic knowledge of radio, a piece of string, an oscilloscope, and a scale map of Dealey Plaza can do it and check the bureau's work. It doesn't take Barger or Weiss's ability to do it now."

"They will contract out for the acoustics," Blakey continues. "It's the FBI's judgment that it would *not* be wise for them to do it themselves. For obvious reasons. If they said that we were wrong, nobody would believe them."

**Hoffa and Giancana were murdered, but Trafficante and Marcello thrive.**

*BECAUSE OF THIS VERY FACT,* several critics of the Stokes committee report have argued that a special prosecutor, independent of the Justice Department and its subsidiary the FBI, could best supervise the work. Since the committee found the FBI badly botched its original responsibilities—it ignored leads, destroyed evidence, and misled the Warren Commission—many feel it can't do an objective job and doesn't deserve another chance. Blakey again disagrees; he is persuaded that sixteen years later, Justice Department personnel have changed, and for the better, which eliminates the conflict of interest with past loyalties. He also has faith in the checks and balances of the three branches of government. "The kind of criminal investigation that will produce results constitutionally belongs in the department," he argues. "And if you take it out of there, you will get a *bad,* unconstitutional result and you will not want that. If in fact the department doesn't pursue this investigation, the solution is to get a new head for the department, not to take it and put it someplace else."

The department has now had six months to read the volumes. "Up to now they have been shuffling papers around on the acoustics," explains one impatient source. "They don't feel any great pressure, and they would really like it to go away. It will probably take at least six months more to do."

Blakey agrees with this estimate. He is asked, "What's taking so long?" "Bureaucracy," he replies. "Nobody wanted to do anything until they got our final report. They could have started in January if they had wanted to, but they didn't. This is obviously not a crisis for them. Whatever priority this has is extremely low and it is not going forward with alacrity. But the process is going forward. And I think it's inevitable, because the way we framed the recommendation has left them no real alternative. We didn't say, reopen the case. They could say, that's hopeless, and then not reopen it. We asked them to verify what we did, as they are doing, and finish the acoustics. And at that point decide whether to reopen the case."

If Blakey's scenario holds, at that point the focus shifts to the committee's leads on organized crime in New Orleans and Dallas—matters rather separate from the scientific evidence. It is not generally realized that the committee staff had framed a JFK conspiracy thesis before the acoustics data exploded last December. The impact of the acoustics was to upgrade a "likely" conspiracy verdict to a "probable" one. The initial thesis was based not on physical evidence about the number of shots, but rather on a great deal of circumstantial evidence bearing on Oswald's relationships with New Orleans associates of crime boss Carlos Marcello and on Ruby's relationships with a host of mobsters around Marcello, Santos Trafficante, Sam Giancana (former Chicago boss), and Jimmy Hoffa. Though Giancana and Hoffa were the victims of gangland-style murders in 1975—which remain unsolved—Marcello and Trafficante still thrive in their respective domains.

The department's organized-crime experts are said to be impressed with the committee's investigation. "They are suspicious of Marcello and Trafficante," says a source privy to their thinking. "But because the report is so large, it creates a sort of paralysis for someone not familiar with it. They don't know exactly what to do and they're waiting for more feedback from people like Blakey, Representatives Stokes and Preyer [who chair, respectively, the full select committee and the JFK subcommittee], Tip O'Neill, Senator Kennedy, and organized-crime experts from around the country. The department people are very secretive about it."

Concerned about potential legal ramifications, the commit-



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tee chose final language that only eased it out onto the ledge overlooking this conspiracy evidence. Its report does not directly accuse Marcello and Trafficante of plotting Kennedy's death, but does say cautiously that they cannot be "precluded" as suspects. However, since leaving the committee, Blakey no longer feels personally constrained and has spoken out forthrightly. He is not an impetuous man and he measures his words with care, yet he now flatly states, "The Mob killed the President of the United States and got away with it for fifteen years and continues to get away with it."

## "Give me 5 lawyers and 25 FBI agents and 6 months," says Blakey.

Blakey claims to be a late convert to this conspiracy view. He says he hadn't followed the development of the case through the years. He had read the Warren Commision report when it came out and was generally satisfied that Oswald had acted alone. "Literally, I did not know what the issues were," he says. "And I had no particular desire for it to come out one way or another."

According to a former staffer, organized crime was at first an unlikely suspect for Blakey, because he didn't feel Oswald or Ruby was the sort of person who would be used for such a hit. "It was a nightmare trying to convince him," says this source. "He has the toughest standard for Mob evidence of anyone around." It wasn't until last November, after the JFK hearings, that Blakey began to put all the evidence together and told the staff he had changed his mind.

"I resisted it for the longest time," concedes Blakey. "And I personally treated the staff with the utmost skepticism as this Mob evidence began to develop. I'm sure they all think I'm some kind of nut, because I never believed anything they said."

*ATTORNEY GENERAL CIVILETTI HAS* to make his decision in the context of the current race between Jimmy Carter and Ted Kennedy. Certainly from the moment LBJ persuaded Earl Warren to head the blue-ribbon commission in order to squash the nasty rumors before the 1964 election, determining what happened in Dallas has always been a political hot potato.

The question today is whether officials appointed by and responsible to Carter will take on a task that would produce sympathy for candidate Kennedy. "This is probably something Civiletti is going to have to get clearance to do from the White House, because of the political ramifications," says a former committee staffer, summing up the streetwise speculations. "You don't get into the assassination of Ted Kennedy's brother when your boss, the President, is running against him. The political realities are important here."

Carter's people will of course deny this tension exists, and some Kennedy supporters (who want the case pursued) also say there is nothing to it. Other Kennedy backers won't comment for fear that linking the senator's name with the assassination question will threaten his safety.

Kennedy's statements all along on the JFK case have been carefully hedged. He has said that if there was new evidence he'd reconsider his support for the Warren Commission report. With new evidence now scientifically confirmed, he has most recently said he has come to "accept" the commission's report. Just as he didn't stop his draft movement with a Shermanesque statement, he hasn't stopped the assassination investigation from continuing. It would have been easy to terminate the House probe through his close ally Tip O'Neill, especially after the committee's embarrassing start under the leadership of Representative Henry Gonzalez (D-Tex.) and chief counsel Richard Sprague. But instead, RFK protégé Blakey was brought in.

And last year it was revealed for the first time that RFK himself had strong doubts about the Warren Commission report. In his biography *Robert Kennedy And His Times*, Arthur Schlesinger wrote of his talks with RFK between 1964 and 1966 in which Kennedy speculated about whether Oswald was part of a larger plot arranged by organized crime or Castro or Hoffa. After one 1966 conversation Schlesinger noted, "RFK wondered how long he could continue to avoid comment on the [Warren] report. It is evident that he believes that it was a poor job and will not endorse it, but that he is unwilling to criticize it and thereby reopen the whole tragic business."

Ted Kennedy has evidently decided to take the same tack, and will not speak publicly about the assassination. But if he is elected president (and if nothing is done by the Carter Justice Department in 1980), a Kennedy-appointed attorney general will probably pursue both the JFK and King cases until, as Blakey says, "there is nothing left to do."

Blakey believes it would be relatively simple to train a new team. "It's not that complicated anymore," he says matter of factly. "If you took some senior prosecutors and investigators from the department, it would take six to eight weeks to start up."

The fundamental question is, of course, what would be their chances for concrete results? Blakey is ready for the question. "Let's be frank," he begins realistically. "This case is sixteen years old. While I believe there are things that can be done to move this towards trial, I am not necessarily suggesting that I could bring an indictment that would secure a conviction. I think I could come close to it. Give me five lawyers and twenty-five FBI agents and six months and I'll run out all the additional evidence and tell you at that time whether anything else can be done. It may well be that what happened in the past has had a consequence that cannot now be remedied. This case may be permanently unsolved."

"Because you want the truth in this case," he continues, "it does not follow that you will get it. You are entitled to be told the truth. But what the truth may well be is, 'I don't know and it is not knowable.' What this country is entitled to from the Department of Justice is the frank statement, 'We didn't do it right in 1964. And the consequence of not doing it right in 1964 is that the case is officially unsolved. And we have now done in 1979–80 everything that we can and there is nothing else to do.'"

"If they walk away," he concludes, "and say, 'the Congress has done it, let the Congress live with it,' then we have a compounding of the tragedy of 1964. That's what we don't have to live with." ❑



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# The Crimean Tatars:

# A STRUGGLE FOR SURVIVAL

The participating countries acknowledge the universal meaning of the rights of man and fundamental freedoms, the respect for which is a substantial factor for peace, justice, and welfare, indispensable in assuring the development of friendly relations and cooperation among them, as well as among all countries.

The participating countries, on whose territory there are national minorities, will respect the right of persons belonging to such minorities to equality before the law, will give them a complete opportunity to enjoy the rights of man and fundamental freedoms, and will thus protect their legitimate interests in this regard.

*Helsinki Accord, 1975*

## By ALAN FISHER

### Despite repeated promises, the Soviet Union continues to crush its ethnic minorities.

*IT IS NO SECRET THAT THE* Soviet Union, a signer of the Helsinki Accord, has made little effort to respect certain of the accord's provisions. When some Soviet intellectuals formed a monitoring group in May 1976 specifically for "promoting the observance of the Helsinki Agreements in the USSR," the Soviet government made every effort to stop its activities. The founder of the group, Professor Yuri Orlov, is now serving a four-year sentence in a labor camp for monitoring too closely the Soviet "observance."

What is largely a secret in the United States is that for most Soviet intellectuals and "dissidents" the case of the Crimean Tatars represents the most flagrant violation of these agreements. Even more than Soviet Jews, the Cri-

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mean Tatars are in danger of cultural and physical annihilation. Many of the most important political trials have been connected to the "Tatar affair," and such well-known leaders as Nobel laureate Andrei Sakharov and former general Peter Grigorenko have adopted the Tatars as their most important cause.

Who are these Crimean Tatars and what is their offense?

Today the Crimean Tatars are a relatively small minority in the Soviet Union. Estimated at around 500,000, more than half of them live near Tashkent, the capital of Uzbekistan, and in other Central Asian Soviet republics. Barely numerous enough to constitute a true nationality in the USSR, these Tatars are the survivors of a series of Russian attempts at liquidation or assimilation that began in the late eighteenth century and is continuing even today. After centuries of harassment by the Russian government, by the 1890s more than half of the Tatars had moved to Rumania or Ottoman Turkey. Today about five million citizens of Turkey have one or more Tatar ancestors.

The population of Crimean Tatars continued to decline after the Russian Revolution. Collectivization of the peasantry, construction of resorts along the Crimean coast for party functionaries, and purges of leaders who demonstrated "bourgeois nationalist" tendencies left the Crimean Tatar community decimated and demoralized. Fewer than 500,000 remained in 1940. The Crimea, organized as the Tatar Autonomous Socialist Republic by Lenin in 1921, had become primarily a Slavic region by the outbreak of World War II.

This war was the final disaster for the Tatars. Although we now know that the Nazis fully intended to resettle the Crimea with Germans and to make the lush Crimean coast a German "Riviera," the Nazis were able to persuade a number of the remaining Tatar leaders that should the Soviets lose, the Crimea would become Tatar once again. Between 20,000 and 30,000 of the remaining half-million Tatars served in "self-defense" units, helping the German occupation forces maintain order and fighting against Soviet partisans in the Crimean mountains.

Less than two weeks after the Soviet reoccupation of the peninsula, military and police detachments rounded up the Tatars, placed them in boxcars, and shipped them eastward to be resettled in camps in Central Asia. The deportation, begun in the spring of 1944, included all Tatars, not only those who had actually aided the Nazis, but even those who had fought for Soviet victory in the Red Army, Communist party members, and some Soviet partisans. This deportation was not announced in the Soviet press until two years later and then it was explained to the public by *Izvestiia* this way:

> During the Great Patriotic War, when the peoples of the USSR were heroically defending the honor and independence of the Fatherland in the struggle against the German-Fascist invaders, many Crimean Tatars joined volunteer units organized by the Germans and engaged in armed struggle against units of the Red Army. In connection with this, the Crimean Tatars were resettled in other regions of the USSR.

Recent information from dissident sources in the Soviet Union indicates that of the 283,000 people expelled from the Crimea, 157,000 actually arrived at their destinations. Settled in a new and different region, amidst a hostile population, the Tatars were expected to assimilate or disappear. With no assets, cut off from their past, and repressed by the government, how could this minuscule community survive? Had they disappeared completely, the Crimean Tatar case would have been the first truly successful genocide in our century. Yet today the Tatars are thriving and struggling against the full might of the Soviet state to regain their historic rights. It is this struggle against the genocidal policies of Soviet Russia that concerns Andrei Sakharov and other Russian dissidents.

**The deportation included all Tatars, not only those who had aided the Nazis but even those who had fought in the Red Army.**

Large-scale protests by nationalities within the Soviet Union are relatively rare and that of the Crimean Tatars has been by far the most successful. It has wrung major concessions from the Soviet government. Although not known as susceptible to group protests or interest-group lobbying, the Soviets have found themselves forced to recognize the Tatar struggle and to give in on one important point after another.

First, after several years of intense lobbying by Tatar veterans of World War II, in 1954 the government lifted some of its more onerous restrictions on the Tatars, such as the requirement of biweekly visits by every man, woman, and child to the local police headquarters to prove good behavior. In 1957, the year after Khrushchev's "Secret Speech" denouncing Stalinism, the Tatars in the Tashkent area were permitted to establish their own newspaper, *The Flag of Lenin*. Rather than mollifying the Tatars, these two acts only served to encourage them to step up their activities. Using their newspaper to further their political goals and to preserve an interest in their heritage, the Tatars were able to recreate a national identity in the Tashkent area. They organized community assemblies, taught their children language and history, and kept alive dreams of returning to the Crimean peninsula.

Between 1963 and 1966, these community assemblies sent representatives to Moscow to lobby for rehabilitation and the return of their homeland. Using tactics unprecedented in Soviet history, these national representatives made a complete nuisance of themselves, showing up at awkward times in the midst of international congresses of Communists or of journalists, conducting protest marches and demonstrations in Red Square during visits of foreign dignitaries, and provoking severe reactions from the police. Arrests on charges of hooliganism, slander against Soviet reality, and vagrancy led to prison sentences for more than three dozen Tatar activists during these years. (Ironically, these Tatars met other Russian dissidents in the labor camps and were able to interest many in their cause.)

AT THIS POINT THE Soviet government made a major tactical blunder. In July 1967, after a large Tatar demonstration in Tashkent, the minister of internal affairs, the secretary of the Presidium, and the procurator general agreed to meet a Tatar delegation in the Kremlin. The outcome of this discussion was a formal decree absolving the Tatars of whatever charges had been leveled against them and beginning the process of their rehabilitation. It read in part:

> After the liberation of the Crimea from Fascist occupation in 1944, accusations of the active collaboration of a section of the Tatars resident in the Crimea with the German usurpers were groundlessly leveled at the whole Tatar population of the Crimea. These



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indiscriminate accusations in respect of all the citizens of Tatar nationality who lived in the Crimea must be withdrawn. The Presidium of the USSR Supreme Soviet annuls the sections of the relevant decisions of State organs which contain indiscriminate accusations with respect to citizens of Tatar nationality who lived in the Crimea.

The government here admitted publicly that the charges of wartime treason made against the Tatars were largely false, and it was indirectly agreed that the entire deportation had been a mistake. An admission of this kind, the result of direct interest group pressure of a very anti-Soviet sort, had never happened before in the Soviet Union. Given the size of the Tatar community and its history in the preceding centuries, the outcome was astonishing.

Yet for Soviet authorities the "Tatar affair" was just beginning. Legal rehabilitation was fine, but only a first step. The Tatars would not be satisfied until they were permitted to reconstitute their existence as a nationality in their homeland, the Crimean peninsula. In 1954 the Crimea had been assigned to the Ukraine; its population was primarily Russian and Ukrainian. And the resettlement of what had become a community of more than 500,000 might well encourage other nationalities unhappy with boundary designations to press for similar considerations. The government intended to draw the line here.

Since 1967 more than seven thousand Tatar families have tried to return to the Crimea from their places of exile. While a few have succeeded in establishing legal residences there, most have been forcibly evicted. Many have been tried for violating the passport laws, which require registration with local authorities both for housing and work. In normal circumstances such registration is easy to obtain if housing and work are available. Since all evidence points to a labor shortage in the Crimea and since Soviet authorities have been conducting intensive campaigns to encourage workers and peasants to move to the Crimea from other areas, the evidence confirms that housing and jobs exist for those Tatars who want them.

Recent developments, however, suggest otherwise: Although many of these Tatars have found vacant homes, and have even purchased a number of them, local authorities have been carefully instructed to refuse official registration. For example, what happened to Shaver Chakalova, in June 1976, shows how far the authorities will go to intervene against these Tatars. She reported: "I sold my home in Tashkent and came to the Crimea with my family and personal belongings. I made an agreement with Mr. A. S. Pronik to purchase his home. He moved out, we moved in. When I tried to have the sale notarized, the clerk asked Mr. Pronik, 'How do you have the right to sell a house to a Tatar? We will arrest you if you do.' The next day, the chairman of the local council, Mr. G. M. Nikolaev, arrived with a large group of hooligans and destroyed the house."

Circumstances surrounding two Tatar suicides in the Crimea recently indicate that this official policy continues unabated. In June 1978, in a village near the provincial Crimean capital, Mussa Mamut burned himself in the presence of the police who arrived to destroy his home and evict him from the Crimea. In November 1978, Izzet Memadaliev, who was threatened with arrest for "illegal return to the Crimea," hanged himself in the home he had purchased, rather than leave his "homeland." Memadaliev had never been in the Crimea before; he was born in exile in Tashkent two years after the deportation.

**Charges of vagrancy, hooliganism, and "slander against Soviet reality" led to jail sentences for dozens of Tatar activists.**

Information coming from Soviet dissident groups indicates that the government has now decided to implement a stronger policy, removing those Tatars already in the Crimea and preventing others from making the journey. An unpublished secret decision of the Council of Ministers of the USSR in August of 1978 orders local authorities to take every possible precaution against allowing anyone of "Tatar nationality" to even enter or register in any Crimean village. And an unpublished edict of the Ministry of Internal Affairs of the Uzbek SSR in April 1978 states that "Citizens of Tatar nationality, formerly residents in the Crimea, are prohibited from going to the Crimea without proper documents showing that they have found work and housing there." Since such documents are unobtainable, the edict in effect prevents all Tatars from going.

Both decisions are written in such a way as to apply to only one nationality the "Tatars formerly resident in the Crimea." People belonging to any other nationality are not bound by either law. Dissident spokesmen, Tatar and non-Tatar, in complaints to the government have pointed out that these edicts directly violate the new Soviet constitution.

TATAR LEADERS HAVE called for the punishment of those who have so clearly violated the constitution. Since officials at the highest levels were involved in both edicts in question, such punishment is unlikely. Yet the legalistic approach of Tatars and other dissidents on this question, along with their avoidance of violence, places the authorities in an extremely awkward position. Their most effective response, at the moment, has been to arrest and try these protesters for "slandering Soviet reality," "defaming Soviet policy," or "violations of the passport laws."

One Crimean Tatar spokesman who has received some attention in the Western press in the last two years is Mustafa Dzhemilev. His life is fairly typical of Tatars of his generation, though his activism is more extensive. Born in late 1943 while his father was serving in the Soviet army, Mustafa was deported with his mother in May 1944. After studying in Uzbek schools in a region near Tashkent, in 1962 he participated in the formation of the "Union of Crimean Tatar Youth." Discovering books on their people's history, these young Tatars saw that the charges leveled against the Tatars in Russian schools were mostly lies. They sent a delegation of 19-year-olds to Moscow to ask the government for an explanation of their treatment. Dzhemilev was a member of this group.

The government's response was to expel the group from the high school they were attending. Two years later Mustafa succeeded in entering the Tashkent Institute of Engineering to study irrigation and agricultural mechanization. In 1965 another student discovered a paper Mustafa had written on the history of Tatar culture in the Crimea. When the rector learned of this, he removed Mustafa from the institute for "academic deficiencies." Mustafa protested, and was able to gain the support of some other non-Tatar students and even of the institute's lawyer, but to no avail. After further investigation, the local prosecutor had Mustafa arrested and charged



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with spreading "anti-Soviet slander." In May 1966, Mustafa, then 22, was sentenced to two years in a "hard labor camp."

*WHEN MUSTAFA RE*turned to Tashkent after serving his term, he learned to his surprise that ten leading Tatar intellectuals, including the noted physicist Rolan Kadyev, were about to go on trial. At the trial Mustafa met General Peter Grigorenko, a World War II hero who had become interested in the Tatar cause. Grigorenko was joined in Tashkent by the Jewish poet and literary critic Il'ia Gabai. Both Gabai and Grigorenko themselves were arrested at this trial, presumably for merely attending.

These arrests sparked the formation of the Initiative Group for the Defense of Human Rights in the USSR. One of the founders was Mustafa Dzhemilev. During this "Grigorenko affair" Western observers for the first time became seriously interested in the Crimean Tatars and their cause. During the next several years, all members of the group, including Mustafa, were repeatedly arrested, tried, and sentenced to various terms in labor camps. Grigorenko himself received periodic "treatment" in the Serbskii Psychiatric Institute in the hope that his "mental problems" would be cured. (Grigorenko finally was deprived of his Soviet citizenship last year and now is in permanent exile in the United States.)

In April 1976, Dzhemilev was again tried, this time on the charge of "anti-Soviet slander," and was sentenced to two more years at hard labor. At the second trial, Andrei Sakharov and his wife were beaten by police when they tried to attend the court sessions. This event was covered in the American press, but the focus was always the treatment of the Sakharovs, not the problems of Dzhemilev. One exchange that took place at the trial is worth noting, since it clearly shows the opinion of the government on the Tatar problem, and on elementary civil rights generally.

*Court*: In one of your writings you mention that an article in one of our national journals says that most Tatars already live in the Crimea, and you claim that this is not true. Since it was published by an official Soviet publishing house, you are contradicting an official Soviet position.
*Dzhemilev*: In that article it is written that the Crimean Tatars live in the Crimea today. But according to our statistics, since 1967 when the decree was issued, more than 12,000 Tatars have arrived in the Crimea wishing to stay, and were forcibly . . .
*Court*: What are these "statistics" of yours? Statistics may be collected only by government officials. Who gave you the right to collect statistical information?
*Dzhemilev*: In any case it is not prohibited by law.
*Court*: No private individuals are permitted to gather statistics.

The entire proceedings had a certain Kafkaesque quality. No effort was made to prove that Dzhemilev's statements were actually "slanderous"; the court was interested only in proving that Dzhemilev had made them.

Once again he was sentenced to two years in a labor camp. Upon his release this time, he sent a letter to the Presidium of the Supreme Soviet demanding an investigation, on legal and constitutional grounds, of the entire matter. Arrested once more in February 1979, Dzhemilev finally has officially requested permission to "give up his Soviet citizenship." He wrote: "Rejection of Soviet citizenship in no way indicates rejection of my national homeland —the Crimean peninsula. I will fight for the return of my people to the Crimea and for the reestablishment of its national statehood regardless of where I live."

**At the second trial, Andrei Sakharov and his wife were beaten by police when they tried to attend the court sessions.**

The Soviet authorities refused his request, and in March 1979, Mustafa was sentenced to four years of exile in the Yakut Autonomous SSR, in the far eastern portion of Siberia. He is there today.

The external observer of these developments must ask two questions. Why is the Soviet government willing to violate its own constitution, which Brezhnev is publicly so proud of, by refusing to recognize the rather modest demands of the Crimean Tatar community? And how is this small nationality, in such pathetic isolation, able to persevere in a way that larger groups cannot?

First, the Crimean Tatars, like the Soviet Jews, have been able to maintain their identity by emphasizing education and culture. In spite of numerous obstacles, the Tatars have been able to achieve a much higher and broader level of education, in both arts and sciences, than other Soviet nationalities. In some ways they are a nation of intellectuals. Their only newspaper, published three times a week in Tashkent, includes poetry and literature dealing with Tatar cultural traditions and essays about the Tatar past. In a recent issue there is an article about Asan Memet (Chergeev), a Tatar publicist who worked at the turn of the century with the great Crimean Tatar reformer Ismail Gaspirali. An elected representative of the Tatars to the old Russian State Duma, a socialist and colleague of Lenin's, Asan Memet had founded a journal of Tatar politics in the 1930s. The article concludes with the note that he "died in 1944," obviously in the deportation. This same issue announces the birth of a new Tatar monthly journal devoted to Tatar literary and social problems, *Yildiz* (The Star), to begin in January 1980.

The Tatars have also been able to attract the support of the rest of the Soviet human rights movement, and have become the cause célèbre of the Moscow Helsinki Watch Group.

To explain the hard line of the Soviet government is more difficult. After all, the Tatars for the most part are not asking permission to leave the Soviet Union, as are the Jews, but merely to choose their own place of residence *within* Russia. This can hardly be a sinister goal. But to relent here the Soviets would have to admit in great detail a series of political and juridical blunders and violations, implemented by too many of the current Soviet leaders.

Had the Tatars not been so successful despite little support from within or without the state, one would have to be very pessimistic about their future. They have no foreign spokesmen, no foreign governments or leaders who are interested in their problems. No economic or political pressures are likely to be applied on their behalf.

Yet it is hard to avoid the feeling that ultimately they will succeed. Dzhemilev wrote last year, in his application for an exit visa, "I will never lose my yearning for my homeland, for my native Crimea. But since in the USSR the Crimea is an off-limits territory for me and my fellow countrymen, by asking to leave I am not abandoning my homeland. I am merely choosing another more acceptable place of exile." With leaders as dedicated as Mustafa, who left the Crimea at the age of six months, how can their movement fail? ❑



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**THE OBSTACLE RACE: The Fortunes of Women Painters and Their Work, by Germaine Greer. Farrar, Straus, & Giroux, 373 pp., $25.00.**

# For love or money

*MARINA WARNER*

WHEN THE HERO IN ARIosto's *Orlando Furioso* goes mad, someone suggests that he should visit the moon, where all things lost on earth end up, for there, amongst the spectacles and coins, Orlando will perhaps recover his wits. Ardent Italophile that she is, Germaine Greer has also paid a visit to this Lost and Found counter in the sky and there she was assailed, it seems, by dozens upon dozens of jostling and whispering wraiths, the lost women painters of the Western tradition.

She found a sister of the brothers van Eyck and the daughters of Paolo Uccello and of Tintoretto. She found crushed wives and neglected mistresses—Gabriele Münter, who was eclipsed by Kandinsky; Marlow Moss, who was overshadowed by Piet Mondrian. She saw the artists who vanished in childbirth, and those like the brilliant Bolognese Elisabetta Sirani, who was only twenty-seven when she died from exhaustion. She has rescued Constance Marie Charpentier from being engulfed by Jacques Louis David, and Judith Leyster, who is usually swallowed up by Frans Hals. She saw, and was deeply affected by, the ghost of Constance Mayer, who after a life's work picturing family idylls, absorbed from her two mentors Prud'hon and Greuze the image of woman as child-victim so completely that she took a razor to her throat.

But Germaine Greer did not find that much work, nor that much great work. *The Obstacle Race* is a stupendous piece of research into the names of female painters, but it is thin on their oeuvres. The author is the first person to voice the keen disappointment this brings, and to voice it truculently, even ferociously, for she is nothing if not honest. The only female painter in the West who achieved unequivocally great stature was Artemisia Gentileschi (d. 1653?); she was recognized to be good in her day and has not been forgotten since, nor has her work been "lost."

Given this, Greer, in high dudgeon, sets about classifying the different hindrances to women artists. Her basic aesthetic is founded in psychology. "Western art is in large measure neurotic," she concludes, and women are socially conditioned to conform to the dependent and infantile stereotype of the good woman. The full expression of their creativity, or sublimation, is denied them, while the dive down, into distortion and repression of the ego, is rewarded and thus becomes inevitable. She quotes Stella Bowen, who tellingly commented on her love for the writer Ford Madox Ford:

> He thought I lacked the will to do it [paint]. That was true but he did not realise that if I *had* the will to do it at all costs, my life would have been oriented quite differently. I should not have been available to nurse him through the strain of his daily work: to walk and talk with him whenever he wanted, and to stand between him and circumstances. Pursuing an art is not just a matter of finding the time—it is a matter of having a free spirit to bring it on . . .

Greer claims that the cleaving of women to men leads to fatal weaknesses in their work—"Self-censorship, hypocritical modesty, insecurity, girlishness, self-deception . . ."—and argues that even women who were laureated in their own day were only side-show exhibits, overpraised because the phenomenon of the woman artist was considered so surprising.

But though her fearless, spleenful honesty is admirable, she leans over to far trying to avoid reverse discrimina tion. There is no need, for instance, t qualify the prices commanded by Louis Moillon (d. 1695) as "flattering." Thi consummate painter of still lifes possess es exactly that brand of restraint, of lac of affective comment that is in hig fashion today among contemporar painters too. But most of all, Greer i ungenerous and unnecessarily depress ing because she has chosen to draw th boundaries of her book in a way tha gives the work of male artists the advar tage, and it is neither specious, nor ludi crously loyal to my sex for me to say so

She has limited her long study to eas painting of dead artists in the Wester world. By so doing, she has chosen t hunt for women in the very socioecc nomic and cultural area where, as sh herself so eloquently demonstrated i her marvelous *The Female Eunuch,* the are barred. Intellectual, sensual, imag native, figurative, hot, cold, official, re volutionary, whatever—artists of th twentieth century are women of ever range, because the circumstances an expectations of women have changed.

THE PICTURE OF THE PAST need not be so grim either. Mar Granville (d.1788) was "th most civilised person in the most civil ised era of English culture," Greer pro claims, and her "activity was prodi gious." It ranged from "the making an sticking of pin cushions, Japan work pastel portraits, copies of great masters designs in shell work, lustres, candela bra, cornices and friezes in cut-paper o wood, chenille work . . . upholstery, quil making, embroidery, cross-stitch car pets, miniature playing card painting chimney boards . . ." Granville's collec tion of paper cut-outs of flowers, object of exceptional beauty and delicacy a well as botanical sureness, were recentl displayed at the British Museum. Ad to this list the making of furniture clothes, lace, toys, as well as the workin of materials in innumerable ways—weaving, tatting, patching; add the illus tration of children's books, receip books, household books, and a doze other examples of handiwork—and yo have the area in which women were per

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nitted to express artistic inspiration.

All of these are outside the chosen cope of *The Obstacle Race*. It does not even reproduce one of Mary Granville's paper mosaics, presumably because they belong more to the world of botany than to fine art. Pin cushions and Peter Rabbit are obviously not sublime works of the imagination, but they are, in their humble perfection, the works of the female imagination when it struggles with the obstacles Greer so feelingly recounts. There is no "female" art, just as there is no "female" mind, but there is the complex of allowable female pursuits. Greer is of course alive to this terrible restriction, and comments for instance that the reason there are many powerful female portrait painters, like Sofonisba Anguissola and Madame Vigée Le Brun, is "precisely because portrait painting did not imply any unbecoming breadth of experience."

*The Obstacle Race* would be a very different book, of course, if it were about crafts, and it would be open to charges of spelleity. But even within its limits, it leaves tantalizingly vague the two great issues that frustrated the ambitions of female easel painters. The first is money. Greer sees love as a greater goad, or bad, but buried in the text are constant instances where the need for money seems to have made women work. The real enemy of female artistry is the sexual division of labor—not because children soften the brain or weaken the will or any such nonsense, but because each child represents so many man-hours per day, and in the status quo obtaining in Europe until just the other day, no man could understand why he should work to enable the women in his life to work for themselves rather than for him. *The Obstacle Race* is filled with examples of women who take up the brush when a man disappears. Jeanne Marie Buseau exhibited only after her husband Boucher had died; the same for Sonia Delaunay. Greer sees this as proof of talents smothered to protect the male ego. A part may be; the rest is the economics of widowhood. Contrary to the author's lively sympathies, Angelica Kauffman and Vigée Le Brun were probably helped to paint by their philandering husbands' expensive tastes and shameless exploitation of their wives' fortunes.

*IT ISN'T JUST THAT WOMEN,* especially creative women, love a brute: A fancy boy can also be an incentive to earn. Again, Greer often demonstrates a link between the cost of materials and female exclusion from the fine arts. It was not only technical training that was closed to women (unless their fathers or brothers were artists), but the means with which to buy canvas and paint. So we find Mary Peale to be one of the few female artists established in Stuart England, where women were preeminent and even dangerously influential, and we also find her the recipient, along with Anthony Van Dyck, of £500 worth of ultramarine from King Charles I. It is no accident, in these exceptional circumstances, that she should continue with easel painting and not pin cushions. The advent of watercolors on the market, cheap, portable, and practical, opened a universe for women artists. But although Greer uses a quotation—a negative quotation—from Lady Waterford, one of the most successful of the new breed of enthusiastic amateur, Greer does not discuss her work.

The distance of women from the control of money (even if they were heiresses) is crucial to the understanding of why women were able to write, but not to paint, and certainly not to paint "big" pictures. £400 a year and a room of one's own were essential, in Virginia Woolf's view, for the practice of literature; double that, and you still have not the basic needs of an artist. But there is another reason, and it too is connected with the question of where power lies. Art is a language, and until recently it was an openly didactic language, which was in the control of the authorities and served their interests. Greer's characterization of the artist as a neurotic, even psychotic rebel, reflects a recent and transitional phenomenon.

From the monks and nuns in the scriptoria of the middle ages, who ravish us now with their sensuous images of the Christian universe, to the official portraits of Titian, the artist deciphered in beautiful images the dominating social ethic. I cannot develop this theme in this space, but women did not in general have access to this language of instruction and of power. It was not their appointed role to interpret the cosmos; rather, they formed part of the material being interpreted. Their duties were the subject matter of art, from the affirmed transcendence of the Virgin Mary to the ambivalent celebration of the erotic nude.

Iconography had its own precise borders, and it was male country. Greer intimates this here and there: Artemisia Gentileschi is as powerful as she is because she, uniquely, had the Promethean courage to steal this language for herself and even outdo men in the savage depiction of female activity in the world, as in her gory "Judith and Holofernes." But the Pre-Raphaelites in England, one of the few art movements to permit their iconic language to women, are scorchingly dismissed by Greer for their "deliberately limited scope." This is a debatable judgment on their

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formal style, and certainly a glib one as to their iconography.

*The Obstacle Race*'s strength, its patient exhumation of living ghosts, is chiefly undone by its construction. It is a series of loosely overlapping essays, sometimes general, as in the discussion of scale, sometimes tightly focused, as in the impassioned pages about Artemisia. The names of the lost painters are in among these passages, but unless you know them beforehand, which by definition you can't, you cannot look them up in the index. It would have served Greer's far-ranging research more effectively if a sequence of polemical essays had been followed by a dictionary of painters, arranged chronologically and subdivided by sphere of competence and/or place of work. As it is, her valuable reference contents are almost unusable.

**THE MAN WHO KEPT THE SECRETS, by Thomas Powers. Knopf, 393 pp., $12.95.**

# No footprints

ROBERT L. BOROSAGE

*HELMS, RICHARD MCGARrah, born, 1913; B.A., Williams College; secret intelligence operative in World War II; thirty years in the CIA, director, 1966–73; indicted for perjury, 1977; copped a plea to a lesser charge, 1977; testified before the Senate as a respected expert on secrecy, autumn, 1979.*

The career of Richard Helms is used in this finely crafted study to retell the history of the CIA itself. The book has an autumnal air: The spring salad days of the CIA, the heated months of revelation and condemnation have passed to a new season, a time of transition. No significant new information germinates in these pages. No passion inspires them other than a desire to compile and to explain. Powers writes well and expertly summarizes the material on the CIA that has already been published.

Of the book's protagonist Richard Helms, surprisingly little is offered. Powers repeatedly describes Helms as the man about whom no anecdotes are told. So the author is left with an enigma: Helms is the consummate bureaucrat who has difficulty making bureaucratic decisions; Helms is the man who doesn't leave footprints but whose name is linked with virtually every major CIA abuse revealed by his successors. He is the skeptic about covert action operations who made his career in the Directorate of Plans; he is a man of reputed honor and integrity, yet one who trimmed intelligence assessments to fit presidential moods, who violated his own agency's charter in league with the Nixon-Kissinger assault on domestic dissent, who lied under oath repeatedly to the same senators who thought him honorable. He is the competent, tight-lipped administrator, the "good soldier," the bureaucrat who learned to go along in order to get along, yet he ended up in the dock taking the fall for decades of CIA abuse. Powers spent hours with the man, canvassed his friends and associates, and uncovered precious few keys to his character and personality.

So Powers provides, instead of the story of Richard Helms, a history of the CIA in the form of criminal sociology. He seeks to explain the environment that produced the "dismal list of crime, blunder, embarrassment and failure" that is the CIA's public record.

Powers concludes that covert foreign-intelligence bureaucracies presume an environment of confrontation, of permanent conflict. Accordingly, they flourish in imperial or tyrannical regimes, which must constantly seek to impose order upon unwilling and too often unruly subjects. The CIA is no exception: It prospered with the postwar American imperium. It was founded on permanent conflict with opponents to that order. Its assignment was to gather intelligence, make intelligence assessments, and serve as the President's secret weapon for policing what Dean liked to call "back alleys" of the world.

*POWERS DISCUSSES THE* first two missions in passing. He accepts a bit too much of his subject's faith in the value of spies; he is rather too respectful of the CIA's much ballyhooed, seldom evidenced record for good intelligence assessment; he is far too caught up in the labyrinthian absurdities of the spy vs. spy counterintelligence fantasies. But he provides a good survey of the public record, places many of the criticisms in context, and ultimately admits the madness of James Angleton, counterintelligence chief extraordinaire, who remained convinced that the Sino-Soviet dispute was simply a tactical ploy designed to get the Wes to lower its defenses.

But these are byways in Powers' study. His primary territory is the nov familiar terrain of the CIA's covert ac tions abroad, for covert action wa where the money went, where th adventurers gathered, where the actio was—and where the CIA was happiest i executing the orders of its presidentia masters. Many of the names are nov familiar: Frank Wisner, Desmond Fitz Gerald, Richard Bissell, Mike Burke Tracy Barnes, Kim Roosevelt. Power catches the essential spirit of the cover operators well:

> All were gregarious, intrigued by possibil ties, liked to do things, had three bright idea a day, shared the optimism of stock mark plungers, and were convinced that ever problem had its handle and that the CI could find a way to reach it. . . .The adventu ers thought of the world as infinitely plasti they thought they could do anything wit funds and a broad okay from the top . . .[the were] ebullient men confident they coul work America's will with bright ideas, sui cases of money, or a few more turns of th screw.

Their activities were basic violation of avowed U.S. principles: They concer trated largely on rigging elections, sub verting free associations, bribing elite and staging paramilitary operation Their sense of legitimacy came fro presidential orders and from the ide logical catechism of the Cold War: Th Free World (always capitalized) was i struggle with the ultimately evil Com munist Tyranny. Any weapon in th struggle ultimately served the cause freedom. The elements of the faith wer always a good remove from the re world. (The Soviet Union, however rep rehensible internally, was and is only semideveloped country, initially deva tated by World War II and now su rounded by hostile or unreliable Com munist states.) But fervent belief nee not be grounded in reality so long as promises purposefulness and salvatio

So the CIA set off on its dreary histo of foolishness and crime. Its task was carry out those activities U.S. leade did not want to reveal to the America people, which were deemed necessar for maintenance of an imperial regime otherwise satisfied the whim of Ame ican Presidents. The CIA's history is th secret history of the Cold War, much of still obscured to this day, a history vastl different from what Powers calls th "child's history of the world" that w were led to believe.

Of course, the secrecy was far fro

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absolute. CIA officials like to speak of secrecy from "inception to eternity" but the very nature of covert operations precluded such myths. From the memoirs now available, and from the reports from the rest of the world, it is clear that major covert actions were seldom a mystery to their victims, and American responsibility seldom hidden for long. Moreover, whenever the agency came under criticism, its officials did not hesitate to brag about CIA "successes": the overthrow of Arbenz in Guatemala, of Mossadegh in Iran, the interference in elections in Italy and France.

Much of Powers's treatment concerns the many uses of secrecy by the CIA. Obviously, secrecy is critical to the spy in place, or to the counterintelligence operation in train. The CIA claims an absolute secrecy for its "sources and methods." But, as Powers shows, the secrecy served many other purposes. It masked the failure, incompetence, and plain silliness that have been the most startling aspects of the recent revelations about CIA activities.

*MORE IMPORTANT, IT CAM-*ouflaged the pervasive, routine nature of the operations. Even if the public knew about Mossadegh or about the fiasco at the Bay of Pigs, we had no concept—and still have no concept—of the influence of a secret bureaucracy routinely engaged in covert intervention, with more than eight hundred major covert operations and "several thousands" of minor ones undertaken from 1961 to 1971 alone. Powers views this as creating a false history, which inevitably distorts our perceptions in the present:

> If you can hide the evidence and keep the secrets, then you can write the history. If no one knows we tried to kill Castro, then we didn't do it. . . . If no one knows how many Free World leaders had to be bribed, then we were something purer than the highest bidders.

In his efforts to explain how a man of integrity like Richard Helms could commit so many indefensible, essentially criminal acts, Powers adds secrecy to ideology and presidential authority, for secrets might be hidden even from oneself:

> The U.S., the CIA and Helms himself all did a great many things which they have not found it pleasant to defend in public . . . "if no one knows what we did," Helms might have told himself, "then we weren't that sort of country, the CIA isn't that sort of secret institution, and I'm not that sort of man."

Perhaps, but criminal sociology only explains the social roots of crime, it does not mitigate personal responsibility. Powers too often veers from explaining the environment that produced the crimes of Richard Helms to justifying his commission of them. In this his subject undermines his argument, for Helms violated even the agency's minimal code of behavior: He violated the agency's own charter, and lied more blatantly, destroyed more records, and authorized more abuses than any other CIA official on the public record. That record is no doubt distorted, but it is the only one we—or Powers—have to comment on.

Helms was caught only because the ideological fog dissipated in Vietnam and Watergate and some portion of the secrets was exposed to a different public climate. In retrospect his plight was part of what can only been seen as a salvage operation. August senators expressed suitable dismay at the tawdry misdeeds of the CIA. Presidential candidate Jimmy Carter vowed to curb the agency and never to lie to us. A few geriatric Cold Warriors were retired. Helms, who might have been indicted for conspiracy to murder, to violate the mails, or for misprision and obstruction of justice,


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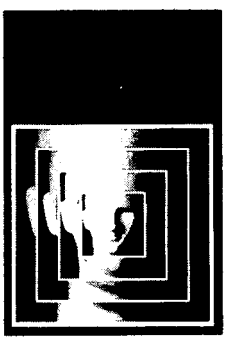

The Politicization of Society

Edited by Kenneth S. Templeton, Jr.

"The state has increasingly replaced the church in determining how we should behave," writes Oxford professor R. M. Hartwell in his introduction. "Politics is now religion." Fourteen scholars examine the central problem of modern society—the growth of the state—and its significance for the individual. They are Robert L. Carneiro, Felix Morley, Murray N. Rothbard, William Marina, Robert A. Nisbet, Jacques Ellul, Giovanni Sartori, Michael Oakeshott, Donald M. Dozer, Herbert Butterfield, John A. Lukacs, Jonathan R. T. Hughes, Butler D. Shaffer, and F. A. Hayek. Hardcover $10.00, Paperback $4.50.

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was charged, as Powers puts it, "not with what he did, but more narrowly for having lied about it." He was implored to plead guilty to a misdemeanor, was slapped on the wrist, and emerged unbowed.

Similarly the CIA was castigated, slapped around a bit, and put back on the job. Upon becoming President, Carter issued an executive order authorizing the CIA to undertake "special activities" (the first public authority for our routine violations of international law and treaty). Washington insiders now say the CIA is back in the saddle, plying its trade in Central America and the Caribbean, trying to counter the trend towards progressive and left-wing governments in that area. And once again, Cold War pieties are intoned by our leaders who call on the old religion to justify a new round of imperial adventure. ❑

***THE PALESTINE TRIANGLE: The Struggle for the Holy Land, 1935–48, by Nicholas Bethell. G. P. Putnam, 384 pp., $12.95.***

***THE UNTOLD HISTORY OF ISRAEL, by Jacques Derogy and Hesi Carmel. Grove Press, 346 pp., $12.50.***

# *Adding a new page*

*RUSSELL STETLER*

*MANY HISTORIANS HOPE* to influence the politics of their own day by enlightening their societies about the misguided decisions of the past. And politicians, in turn, often aim to influence the writing of history. New victors make their interpretations of the past official in some societies, and at least fashionable in most others. Of course, new orthodoxies are likely to be no better than the ones they supplant, but nonetheless, political change is intellectually stimulating when it unleashes sharp criticism of yesterday's official wisdom.

Thus, Menachem Begin's accession to power in Israel is in a way intellectually healthful, regardless of what one may think of his policies. The two books under review here are a product of this new moment in Israeli history. They are by no means simply a reflection of Begin's views, but they do take his views seriously and they reject the orthodoxy that once minimized and even totally concealed the role of Begin and his followers in the creation of the Jewish state. *Untold History* is in fact a rather strident book, speaking bitterly of David Ben-Gurion as a man obsessed with crushing his rivals and achieving what the authors call "totalitarian democracy." The "untold" story is a tale of official secrets from the long period in which Ben-Gurion's Labor party completely dominated Israel and the Zionist movement. It is a tale of infighting and dirty tricks, intrigue and even assassination. The journalists who wrote it—one French, the other Israeli—disclose few sources, and in some cases they are demonstrably sloppy about details, so this provocative book should be read with some skepticism.

*Palestine Triangle,* in contrast, is meticulously documented, and few controversial opinions are even quoted without including a fair summary of opposing views. The author, Nicholas Bethell, has written other books on the tangle of European events surrounding World War II; he has also served as a junior minister in a Conservative government in London and as a member of the European parliament. Bethell's focus in *Palestine Triangle* is on the final years of Britain's mandate in Palestine, and he provides penetrating insight into British views of the conflicting Arab and Jewish forces—from the highest levels of government down to the colonial constables in Tel Aviv and Jerusalem.

Bethell is persuaded that the intractable Arab-Israeli conflict is rooted so deeply in the past that its fate cannot easily be reshaped by those who give it comparatively brief attention. "Men whose decision-making lives last a mere five or ten years have been forced to address themselves to problems raised by four millennia," he writes. "No wonder they have failed." This rhetoric begs some of the most essential questions, not least of them the claim of Begin and other expansionists that Israel is entitled to Biblically defined borders. Yet the world is also full of other reminders that we cannot completely discount the force of ancient animosities: Even the shared commitment to Marxism did not end the many centuries of enmity between China and Vietnam. One has to recognize profound historical factors without being blind to the force of present-day realities. There seems to be an unconscious parody of the famous Balfour Declaration when Bethell writes, "After the Roman conquest the Holy Land stayed under non-Jewish rule for nearly two thousand years."

Bethell himself describes the Balfour Declaration as "the product of 1917, a particularly harsh year in an era of imperial power." He notes that the Arab world has considered it "an unforgivable humiliation" that Britain's support for a national home for the Jews did not mention the Arabs who then made up 90 percent of the population of Palestine this overwhelming majority was simply the "non-Jewish" population. But the crucial point is that the Zionist activists all regarded the Balfour Declaration as an act of restitution—affirming historical, if not biblical, rights of the Jews to land that had in effect been usurped for two thousand years.

***Men whose decisionmaking lives last a mere ten years are trying to solve the problems of four millennia.***

*THE THEME OF RESTITUTION* was echoed by no less a voice than Winston Churchill who was colonial secretary in 1922, at the beginning of the Palestine Mandate. Testifying before the Peel commission in 1937, Churchill argued that the Arabs had entered the area after the Jews and that the "great hordes of Islam" had turned the place into a desert. "Where the Arab goes, it is often desert," he claimed. According to Bethell, in Churchill's view "*this* was the potential injustice, the idea of leaving the Holy Land a desert, when it could be in the hands of men and women of energy and enterprise, who would plant it with orange groves."

A colleague quoted Churchill as calling the Arabs "a backward people who ate nothing but camel dung." Attitudes toward the Jews who wanted to colonize Palestine were scarcely better. A colorful memo from the British minister in Egypt in the summer of 1938 warned the For

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ign Office that "we shall be in queer treet" if the Arabs closed the Mediterranean and the Red Sea to Britain. He suggested that the government "bring the pro-Jew element" in Parliament into line, and then concluded, "Please don't think from all this that I am pro-Arab or anti-Jew. . . . I think them each as loathsome as the other."

At the level of personal prejudice, Jew and Arab may have often been equated, as much of Bethell's documentation suggests. The individual colonial constable or soldier may have made no distinction and treated individual Arabs and Jews with equal brutality at times. But, as Bethell shows with overwhelming statistical evidence, at the level of official policy the force that Britain applied to suppress the Arab revolt of the 1930s was vastly greater than was applied against the Jewish revolt of the 1940s. In 1938, for example, 69 British were killed in the fighting, compared to at least 1600 Arabs. Between 1936 and 1939, 107 Arab terrorists were executed. The official figures for those killed as a result of terrorism from August 1945 to September 1947 were quite different. According to Bethell:

> Not counting the 91 killed in the King David [Hotel] explosion, they included 141 British, 44 Arabs and 25 Jewish non-terrorists. Jewish terrorists suffered 37 killed in fighting, seven executed and two who committed suicide while awaiting execution. The figures seemed a clear demonstration of Britain's gentle approach to the Irgun and Lehi. Usually, when elements of a local population rebel against a foreign occupying power, the guerrilla fighters and their supporters are killed in greater numbers than the occupying forces.

There are many possible explanations for the contrasting levels of force employed by Britain. Many Arabs would charge simple racism: that Britain would not use the same violence against fellow Europeans, whether Jews or gentiles. Others would note that the Arabs just had no significant allies or coreligionists among the British electorate. Western analysts might stress the U.S. support for Zionism as an important consideration restraining Britain. Some would point to the Nazi holocaust as the decisive event, after which no European state would contemplate a policy that showed no sympathy for Hitler's victims.

*BUT MENACHEM BEGIN'S* explanation is far simpler: His terrorism worked. The extremist violence of Begin's followers—blowing up the King David, executing hostages, killing some 250 Arab civilians at the village of Bir Yassin—achieved its objectives. It demoralized the British, ended the use of capital punishment against captured terrorists, and prompted massive Arab flight from Jewish-held sectors of partitioned Palestine. In a contemporary interview, Begin told Bethell that executing hostages, for example, probably saved dozens of Jewish lives. Discussing Begin's methods as an Irgun commander, Bethell writes that "there is not one single instance . . . where he will admit to a sense of remorse, or even that an error was committed."

Perhaps more significantly, Bethell also quotes members of groups that condemned Begin's terrorism in the strongest terms in the forties; they now feel that his extremism was a helpful "complement" to the more moderate Zionist forces that placed greater stress on diplomacy and massive illegal immigration to Palestine.

The weakest area of Bethell's otherwise fascinating analysis is his sparse treatment of the U.S. role in the creation of Israel. He makes the debatable claim, in passing, that "The United States, of course, shared Britain's war aims entirely," but later notes more perceptively that U.S. policy toward the partition of Palestine might have been different if the United Nations had acted on the matter in 1948 instead of 1947. In 1948, he argues, both the Congress and President Truman might have been more prepared to back the British empire for anti-Soviet reasons. These references to the global picture, in the opinion of this reviewer, are disappointingly brief. This dimension deserves at least as much attention as Bethell devoted to the two thousand years in which Cyrus, Alexander the Great, Ptolemy, the Seleucid rulers of Syria, Pompey of Rome, the Crusaders, and the Ottoman Turks were running the show.

Readers of *Palestine Triangle* and *The Untold History of Israel* will not come away with new hope of peace in a troubled land. The latter book fills us with a sense of conspiracy and betrayal. Behind the idealists of the kibbutzim, busy making the desert bloom, we find a world of saboteurs and provocateurs, spies and hitmen, dating back to the Jewish minority in Ottoman Palestine. The book has its heroic portraits, but there is an unreal quality to a world that needs such heroes to survive. *Palestine Triangle* evokes a deeper pessimism, and it does so consciously. On his last page, Bethell quotes a British official "who did his best to serve Palestine, which he loved":

> Palestine was indeed a tragely. It moved to its fated conclusion like the Oresteia of Aeschylus. We who worked there could do no more than attempt to mitigate the operation of fate, in a sense the consequences of the creation of sin by sin as Aeschylus put it. I am afraid that the tragedy has not yet reached its end and that the teeth of the children will still be set on edge.

***MALTHUS*, by William Petersen. Harvard University Press, 302 pp., $17.50.**

# *Parson of the profane*

*DAVID GORDON*

*WILLIAM PETERSEN HAS* undertaken the broad and ambitious task of vindicating the reputation of that most infamous of eighteenth-century economists, Thomas Malthus. Far from being devoid of any feeling for humanity, gloomily prophesying the doom of all efforts toward progress, Malthus in fact pursued a policy of cautious optimism. Petersen stresses the accuracy and analytic skill necessary to formulate the famous principle of population and clears up many misunderstandings surrounding it. According to the publisher's blurb Petersen is "acknowledged as one of the world's greatest demographers," but unfortunately his expertise does not extend to the full range of subjects he treats. His exposition of Malthus's economics creates more confusion than it dispels, and his discussion of historical issues includes errors that would disgrace a tyro.

Malthus has been the object of great hatred on the part of social reformers. "There is only one person too many in the world," said Proudhon, "and that is

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Malthus." And given the conventional caricature of Malthus's views, this feeling is readily understandable. In the *Essay on the Principle of Population,* it is alleged, Malthus argued that population necessarily outruns food supply: The number of people in a country will double every few years, and the supply of food can at best increase at a constant rate. Any attempt to aid the poor must in the long run fail; if a particular measure improves their condition, its only lasting effect will be to increase the birth rate and reduce the population to its former level of misery. The concept of charity, however beneficent in intention, is in practice nugatory.

**Malthus has been the object of great hatred on the part of social reformers.**

Petersen maintains that this popular conception of Malthusianism is indeed a caricature, in that it ignores the actual text of the *Essay,* particularly the second and later editions. The notorious contrast between the geometric progression at which population tends to increase and the arithmetic progression limiting the growth of the food supply represents merely part of a preliminary model, which Malthus proceeded to refine and complicate as he extended his analysis. The full effect of these ratios did not operate by inexorable law, and could be modified by means amenable to social control. If the average age of marriage in a population were high, and the number of children per family voluntarily kept low, then, Malthus states, there was no bar to increasing the average standard of living indefinitely. Malthus, a critical supporter of the Industrial Revolution, expected such progress to take place in Britain, America, and much of Western Europe.

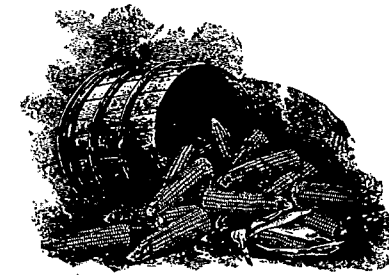
How was such a happy consummation to be achieved? Malthus placed his main hope in the adoption by the poor of the more abstemious customs of the middle classes. Such prudent habits would be inculcated in the minds of the improvident through a system of state-supported education. If attempts such as these to transform the poor into replicas of middle-class Englishmen failed, then, as even Petersen admits, the prognosis adumbrated by Malthus was not a happy one. Population would be kept limited by vice and misery, the so-called positive checks, and by war, pestilence, and famine, the preventive checks. (Incidentally, Malthus regarded the use of birth control devices as a species of "vice." He did not, as is frequently believed, favor artificial means of contraception.) But, once more, this is hardly a counsel of despair. The sum and substance of the Malthusian principle is that there is an optimum level of population for each society. While the principle may in effect throw cold water on some of the more bizarre reveries of William Godwin, Malthus's chief opponent, it need not, in Petersen's view, have very drastic consequences in planning social policy, so long as its bounds are respected. In some underdeveloped countries, Petersen thinks the principle may well mandate action to raise the level of population.

Petersen's rather free and easy resort to governmental planning of population may suggest to some that his grasp of the broader context of the social sciences does not match his mastery of the intricacy of population statistics. His chapter on Malthus's economics, one regrets to say, turns this conjecture into a certainty. Petersen begins by assailing David Ricardo, the leading contemporary antagonist of Malthus in economics, for using overly abstract models. He claims that Malthus, a good empiricist, was a much better scientist, relying on induction from carefully collected facts. This defense of empiricism, besides its inconsistency with the book's earlier defense of the population principle as an abstraction, sounds suspiciously a priori.

PETERSEN'S DETAILED presentation of Malthusian economics is barely more successful than this foray in methodology. He correctly points out the key to Malthus's position; in contrast to Ricardo and the other classical economists, Malthus rejected Say's Law of Markets and believed a "general glut" (i.e., overproduction) to be possible. He ascribes Malthus's opposition to Say's Law to his denial of the alleged assumption of the Ricardians that consumer demands were unlimited.

But the question of whether there are limits to the number of new products that can be brought on the market has nothing to do with Say's Law. The law does not imply that a stationary economy is impossible, but rather that general overproduction cannot occur. This misunderstanding leads Petersen to virtually ignore the actual reason for Malthus's attack on the law of markets the use of money in an economy permits hoarding, which Malthus wrongly thought disrupted the connection between supply and demand that the law assumes. Perhaps it is Petersen's imperfect acquaintance with economic theory that allows him to defend Malthus' support of the Corn Laws, although their repeal in 1846 is an act almost universally regarded as a triumph of enlightened liberalism.

Inadequate understanding of the fine points of economic analysis is at worst a venial sin, but the same cannot be said for Petersen's constant stream of historical inaccuracies. Someone should have prevented him from claiming that the years before 1789 were ones of "British victory," and that "the main positive contribution" of William Godwin to the science of demography was "a vision of immortal castrati." The existence of vice and misery did not, as Petersen believes, "pose a newly urgent problem to theologians" because of the principle of population; the problem of evil had been a staple of religious discussion for centu-



ries prior to Malthus. And why is the distinction between optimists and pessimists over the Industrial Revolution said to be "fatuous"? Finally, Kenneth Arrow has not demonstrated that utilitarianism is "logically impossible." One could go on at much greater length, but happily this is unnecessary, as the errors, however annoying, do not invalidate Petersen's presentation of Malthusian doctrine. Perhaps the mistakes may even serve to suggest a scientific law: As demographers stray from their specialty, their errors increase in geometric progression.



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# FILM

**THE ROSE, directed by Mark Rydell.**

# *Broken blossom*

*STEPHEN HARVEY*

*ONE OF THE MOST CHER*ished legends in show-business folklore centers on the figure of the chanteuse who rides a tidal wave of talent, only to capsize in the undertow of her own volatile emotions. Millions idolized Judy, Billie, Janis, and the Little Sparrow because they had the gift of distilling in song all the pain and vulnerability that allegedly lurks within us all. Their more rabid fans at the same time indulged a morbid fascination by watching these artistes disintegrate from overexposure to the very forces that nurtured them, both without and within. This ill-starred image is apparently harder to kill than Rasputin. Since the present crop of pop divas (Barbra, Diana, Liza, et al.) are apparently made of sturdier stuff than their forebears, to placate their aficionados they must self-destruct by proxy, impersonating one tempest-tossed antecedent or another in concert and on screen.

The particular characteristics of such movies' real-life subjects (who are generally far less well-known to the movie public than the actresses playing them) are usually irrelevant and therefore disregarded. It's the overriding myth that counts, and even that only up to a point. The real function of these movies is to showcase the virtuosity of their actual on-screen stars, and in a sense, to underscore the superiority of these ladies to the figures being reincarnated—after all, it takes a lot of stamina and discipline to capture the requisite disintegration and *Angst*. In the fifties, Susan Hayward, Doris Day, and (less triumphantly) Ann Blyth relied upon this ploy to rev up and shift gears at a critical turn in their lengthy screen careers, but the current generation is too impatient for that, choosing these vehicles for their splashy movie debuts instead: thus, *The Rose*, a rickety shrine erected to the memory of Janis Joplin, atop which services are conducted by the brazen low priestess of the seventies, The Divine Miss M.

The semifictional heroine concocted by scripters Bill Kerby and Bo Goldman is a kind of Two Faces of Eve melding of the Joplin/Midler personas. Like Janis, the Rose is a Bible Belt pariah turned Bohemian queen of raunchy blues, with a taste for granny-glitter raiments and an addiction to booze and other sundries indulged both behind the scenes and

before the public. (Poetic license dept.: The Rose prefers Jack Daniels to Janis's Southern Comfort.) Like the beloved Bette, the Rose is also a camp seductress, the last of the lavender-hot mamas, who trades quips with drag queens and sashays into the steamy labyrinths of men's bathhouses in quest of that He who will satisfy the lonely She camouflaged by all that sassy, sequined bravado.

This cross-fertilization breeds a few awkward if minor discrepancies. When in concert the Rose casts herself as Poet Laureate of every woman's lovelorn blues, the movie's editor must take great pains to come up with the appropriate close-up of some female fan swaying in blissed-out accord, since in long shot, Bette's audience is the usual sea of manicured mustaches and trim male torsos. Such trivial points apart, if *The Rose* isn't the most baroque effort of its kind since *The Helen Morgan Story*, it wasn't for lack of trying. However overwrought its predecessors may have been, at least they had the basic dramatic sense to trace their subjects' lives in a parabola from obscurity to the Pantheon down to *Götterdämmerung*, which had the virtue of permitting their stars to pace themselves for the big moments later on. Yet when we first see the Rose, she's girding herself for that last road tour, which will finish her off, squinting through her shades while tottering blotto down the ramp of her private plane.

*THE NEXT TWO HOURS ARE* an almost unrelieved record of her every last lurch towards self-obliteration. It's all so schematic that the story has no contours or momentum; this single-minded movie is one long paroxysm without any context. Director Mark Rydell makes only the faintest nod toward recreating the frenzied pop-culture milieu of the late sixties. Although you're continually told that the greed, hype, and callousness of the star-making machine tramples the Rose while making her bloom, all you see is the patented montage of *Rolling Stone* clichés—paparazzi, groupies, and pills, pills, pills. Presiding over this maelstrom is the Rose's Machiavellian manager played by Alan Bates, who is reduced to a scant repertoire of unintelligible barks and baleful stares beneath his greasy black forelock.

The Rose herself has dimensions to spare—the trouble is, the same ones keep looming out at you in scene after scene. She's a schizy lady if ever there was one—terrified and drained by the work and renown that give her life meaning, contemptuous of the *lumpen* types who blighted her youth yet desperately needy of their approval, aching for fulfillment with some man who can stand up to her but repelling the likeliest candidate when he refuses to play lackey to her Diva. By most accounts, Joplin was guilty of nearly every charge, but however accurate this portrait may be, it's hard to be emotionally persuaded by it when the Rose's conflicts become as predictable as the tides and manifest themselves with like frequency.

Rydell's guiding axiom seems to be that if once is potent, twice is bound to be devastating. Hence the Rose stumbles into an uncomprehending world of rednecks, causing riots first in a New York diner and later at a Florida roadhouse. Bottles are drained and/or shattered twice per reel-change, and every other concert must be preceded by will-she-won't-she-appear nailbiting. (She always does, sooner or later.) You can

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bet that if any scene starts off pianissimo, it's bound to escalate into a brawl or a breakdown.

Nearly every movie of this type appears to have been consciously fabricated to be as trashy as possible so that the star could be enhanced by the contrast. Once again the tactic seems to have worked, to the satisfaction of audiences and most critics. On all sides, Midler has been lauded for daring to expose herself so unstintingly, but as far as I'm concerned she doesn't rise above *The*

*Rose*'s excesses, she merely amplifies them. Granted, she doesn't shrink from exposing the Rose's more unsavory qualities, and in theory her histrionics might serve as a dramatic metaphor for the adrenalin surge that animates all great rock performers. Yet to convince yourself that naked emotionalism is being unleashed, when the calculated self-indulgence of it all comes through at every turn, you have to work nearly as hard as she does.

*MIDLER OFFERS UP* precisely the kind of maudlin mascara-and-snot routine that the iconoclastic Bette of yore might have dished out in one of her live routines. Any one of her transformations from little girl lost to strident Medusa will look terrific in excerpt on next April's Oscarcast, but as a whole they reveal a performer who's exhausted all her tricks long before the character she's playing burns out once and for all. Like other proven comediennes who've gone legit (Carol Burnett's first dramatic forays come to mind), Midler sweats to prove that tragedy too is within her range although the clown within her can't help pushing it all over the edge into lampoon. The harder she strains towards catharsis, the more detached you feel: Surely she can't pitch things any higher, I thought towards the end, seeing her sprawled out in a parking lot, keening with desolation. Yet still in store is the "Hello central, give me immortality" telephone scene, a surefire star-making gambit ever since Luise Rainer first trotted it out in *The Great Ziegfeld.*

Ironically, all her shrill trumpery can't prevent Midler from being upstaged by those who go about their business with the quiet assurance of seasoned pros. Harry Dean Stanton contributes a pithy cameo as a terse, Calvinistic country-western great who believes the Rose is too flashy and phony to sing his songs, and Frederic Forrest unceremoniously steals Midler's thunder whenever he ambles on screen. Forrest's role is one of the most threadbare standbys of this genre—he's the man that got away, the stalwart, straightforward male who tries to redeem the woman smothered by her trappings as the Star. Yet this actor's unforced masculinity and pared-down technique bring genuine texture to the part. It's revealing that you really empathize with the Rose's plight only at those moments when her perverse antics threaten to shut him out once and for all—Forrest makes it clear just how much she'll be losing once he shakes her Angel Dust from his boots for good.

It would be nice if the sequences of the Rose on stage managed to compensate for everything else, since that, after all, is what Midler (like the late Janis) is all about. Midler infuses her voice with a hint of Joplin's raspy tremolo while preserving her own brand of dynamic belting—yet the new songs written for the movie are rather indifferent for the most part, and the sound recording is so furry and overorchestrated that at times you can barely understand what she's singing.

Oddest of all is the way Rydell urges Midler to pull out all the stops in full view for her monologues but keeps intruding between her and the audience during the best of her rock arias. Early in the film she sings "When a Man Loves a Woman" as if this plaint had been wrenched straight from the solar plexus, and all you want is a good look at her while she's letting it burst forth. Instead, the camera skitters around as if Midler and the *mise en scène* were competing to see which had more rhythm—you get the back of her platinum-tressed head, endless tilt-angled views of the stage from afar, an expanse of left cheek and a sliver of eye just within the frame; all tossed together with too many shots of the rapt on-screen audience.

Still, there's no reason to assume that Rydell's ponderous imprint and Midler's "this must be great acting because there's so much of it" approach won't enthrall the millions who thrilled to this spectacle when it was called *Love Me Or Leave Me* or *Lady Sings the Blues* in superior past existences. *The Rose* cheerily epitomizes those venal show-biz values it pretends to be debunking, but there's a real-life happy ending at the fadeout: As fiction, it implies that all that jangling egomania may kill you, but in fact *The Rose* proves once again that this is truly the stuff that careers are made of.


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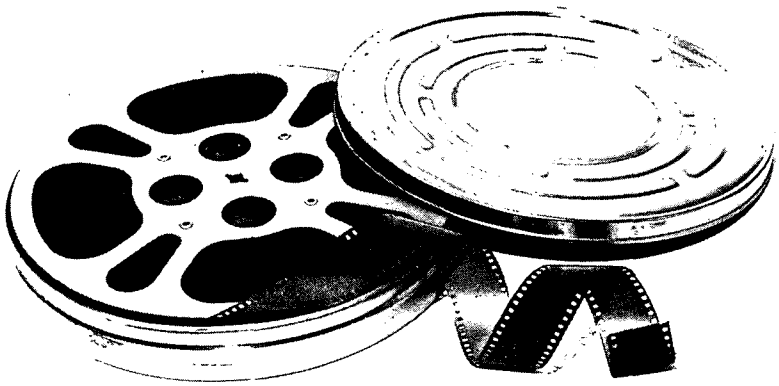

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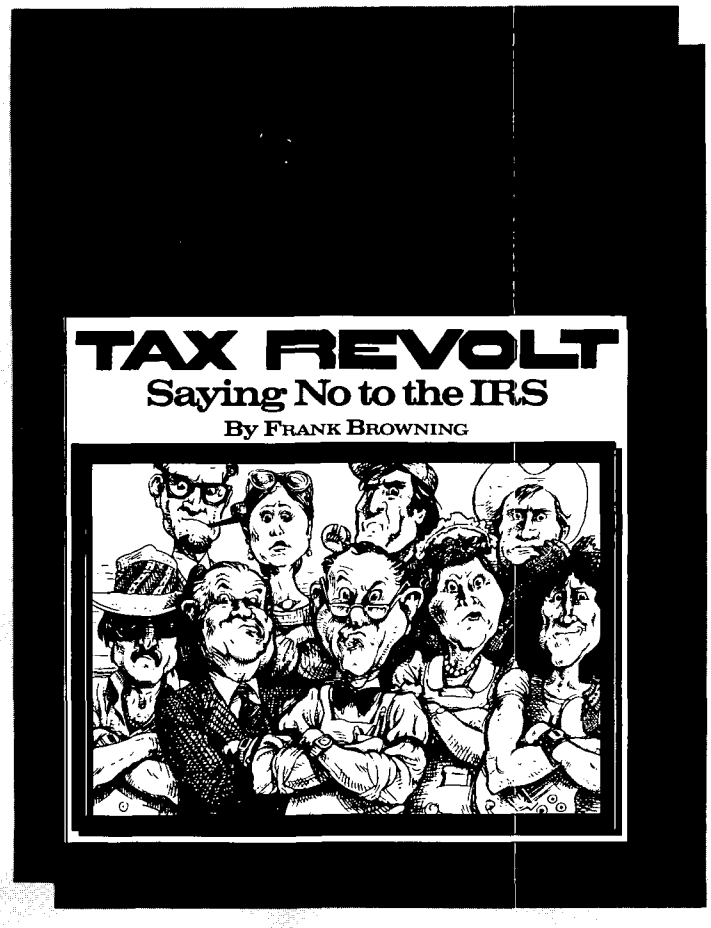


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